

**Sierra County, CA**  
**Transient Occupancy Tax Handbook**



**Revised by the Sierra County  
Treasurer-Tax Collector's Office  
December 2022**



# Sierra County

## Treasurer – Tax Collector

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This handbook is designed to assist innkeepers, short term rental, and campground/RV park owners/operators with the reporting and collection of Transient Occupancy Tax in Sierra County. A copy of the current 2021 TOT Ordinance of the Sierra County code, as well as the 2022 Ordinance 1117 (short term rentals) is included for your reference. Please keep this handbook readily available to yourself or any operators for your short-term rental for quick reference. We hope this handbook will help to answer any questions you may have regarding Transient Occupancy Tax in Sierra County, CA.

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# **California Law References**

- **Revenue and Taxation Code 7280-7283.51, et seq.  
Transient Occupancy Tax**
- **Board of Equalization Regulation 1603(a)  
Sales Tax on Meals**

**STATE OF CALIFORNIA  
REVENUE AND TAXATION CODE §7280-7283.51**

**TRANSIENT OCCUPANCY TAX**

**EFFECTIVE 1/1/05**

**7280.** (a) The legislative body of any city, county, or city and county may levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days. The tax, when levied by the legislative body of a county, applies only to the unincorporated areas of the county.

(b) For purposes of this section, the term “the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging” does not include the right of an owner of a time-share estate in a room or rooms in a time-share project, or the owner of a membership camping contract in a camping site at a campground, or the guest of the owner, to occupy the room, rooms, camping site, or other real property in which the owner retains that interest.

For purposes of this subdivision:

- 1) “Time-share estate” means a time-share estate, as defined by paragraph (1) of subdivision (x) of §11212 of the Business and Professions Code.
- 2) “Membership camping contract” means a right or license as defined by subdivision (b) of §1812.300 of the Civil Code.
- 3) “Guest of owner” means a person who does either of the following:
  - a. Occupies real property accompanied by the owner of either of the following:
    - i. A time-share estate in that real property
    - ii. A camping site in a campground pursuant to a right or license under a membership camping contract.
  - b. Exercises the owner’s right of occupancy without payment of any compensation to the owner.
  - c. “Guest of that owner” specifically includes a person occupying a time-share unit or a camping site in a campground pursuant to any form of exchange program.

(c) For purposes of this section, “other lodging” includes, but is not limited to, a camping site or a space at a campground or recreational vehicle park, but does not include any of the following:

- 1) Any facilities operated by a local government entity.
- 2) Any lodging excluded pursuant to subdivision (b).
- 3) Any campsite excluded from taxation pursuant to §7282.

(d) Subdivision (b) does not affect or apply to the authority of any city, county, or city and county to collect a transient occupancy tax from time-share projects that were in existence as of May 1, 1985, and which time-share projects were then subject to a transient occupancy tax imposed by an ordinance duly enacted prior to May 1, 1985, pursuant to this section Chapter 257 of the Statutes of 1985 may not be construed to affect any litigation pending on or prior to December 31, 1985.

**STATE OF CALIFORNIA**  
**REVENUE AND TAXATION CODE SECTIONS 7280-7283.51**

(e) (1) (A) If the legislative body of a city, county, or city and county elects to exempt from a tax imposed pursuant to this section any of the following persons whose occupancy is for the official business of their employers, the legislative body shall create a standard form to claim this exemption and the officer or employee claiming the exemption shall sign the form under penalty of perjury:

- i. An employee or officer of a government outside of the United States.
- ii. An employee or officer of the United States government.
- iii. An employee or officer of the state government or of the government of a political subdivision of the state.

(B) The standard form described in subparagraph (A) shall contain a requirement that the employee or officer claiming the exemption provide to the property owner one of the following, as determined by the legislative body of the city, county, or city and county imposing the tax, as conclusive evidence that his or her occupancy is for the official business of his or her employer:

- i. Travel orders from his or her government employer.
- ii. A government warrant issued by his or her employer to pay for the occupancy.
- iii. A government credit card issued by his or her employer to pay for the occupancy.

(C) The standard form described in subparagraph (A) shall contain a requirement that the officer or employee provide photo identification, proof of his or her governmental employment as an employee or officer as described in clause i., ii., or iii. of subparagraph (A), and proof, consistent with the provisions of subparagraph (B), that his or her occupancy is for the official business of his or her governmental employer.

(2) There shall be a rebuttable presumption that a property owner is not liable for the tax imposed pursuant to this section with respect to any government employee or officer described in clause i., ii., or iii. of subparagraph (A) of paragraph (1) for whom the property owner retains a signed and dated copy of a standard form that complies with the provisions of subparagraphs (B) and (C) of paragraph (1).

(f) The provisions of subdivision (e) are not intended to preclude a city, county, or city and county from electing to exempt any other class of persons from the tax imposed pursuant to this section.

**7280.5** (a) The redevelopment agency of any city which has levied a transient occupancy tax pursuant to §7280 or 7281 may also, by ordinance, levy a transient occupancy tax in accordance with this part, if the city's ordinance entitles any person subject to a transient occupancy tax under the city's ordinance to credit the amount of transient occupancy taxes due to the redevelopment agency of that city due to this section against the payment of taxes due under the city's ordinance.

(b) An ordinance of a redevelopment agency imposing a transient occupancy tax pursuant to this section shall contain an enacting clause which states as follows:

“The redevelopment agency of the City of \_\_\_\_\_ does ordain as follows:”

The ordinance shall be signed by the chairperson of the agency and attested by the clerk or secretary of the agency, and shall take effect immediately upon its final passage, but shall become operative on the first day of the first calendar quarter commencing more than 180 days after adoption of the ordinance. In all other respects, the ordinance shall be introduced and passed, and notice given by publication, in the manner provided by law for general law cities.

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**REVENUE AND TAXATIONS CODE SECTIONS 7280-7283.51**

(c) Any redevelopment agency adopting an ordinance pursuant to this section shall not levy a transient occupancy tax in excess of the rate transient occupancy tax levied by its city, and the tax shall be levied only on accommodations located in a redevelopment project area for which the taxes are pledged pursuant to subdivision (e) of §33641 of the Health and Safety Code.

(d) Any pledge pursuant to §33641 of the Health and Safety Code made with respect to taxes imposed under this section for the payment of principal and interest on bonds of a redevelopment agency shall constitute the obligation of a contract between the redevelopment agency and the holder of the bonds and shall be protected from impairment by the United States and California Constitutions. The provisions of this section which authorize the imposition of the taxes may not be repealed during the time that any of the bonds remain outstanding.

**7281.** The legislative body of any city or county may levy a tax on the privilege of renting a mobile home, as defined in §18008 of the Health and Safety Code, which is located outside a mobile home park for occupancy on a transient basis unless such occupancy is for any period of more than 30 days. Such tax when levied by the legislative body of a county shall apply only to the unincorporated areas of the county. This section does not authorize any city or county to levy a tax on the privilege of renting any mobile home when the tenant is an employee of the owner or operator of the mobile home.

**7282.** Notwithstanding any other provision of law, no city, county, or city and county may levy a tax on the privilege of occupying a campsite in a unit of the state park system.

**7282.3.(a)** Notwithstanding any other provision of law, no city, county, or city and county may levy a tax under §7280 on any amount subject to tax under the Sales and Use Tax Law (Part 1(commencing with §6001)) with respect to the sale of food products.

(b) This section shall also apply to charter cities.

(c) For purposes of this section, “food products” means food and beverage products of every kind, regardless of how or where served, and shall specifically include, but not limited to, alcoholic beverages and carbonated beverages of any kind.

**7283.** A board of supervisors may, by ordinance or resolution, establish procedures for the collection of delinquent amounts of any tax levied pursuant to this chapter.

**7283.5.(a)** (1) A purchaser, transferee, or other person or entity attempting to obtain ownership of a property, the owner of which is required to collect the tax imposed pursuant to this chapter, may request the city, county, or city and county in which that property is located to issue a tax clearance certificate under this section.

(2) A city, county, or city and county that issues a tax clearance certificate under this section may charge an administrative fee to cover its costs in issuing the certificate.

(b) Within 90 days of receiving a request described in subdivision (a), a city, county, or city and county shall do either of the following:

1) Issue the tax clearance certificate.

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- 2) (A) Request the current owner of the property to make available that owner's transient occupancy tax records for the purpose of conducting an audit regarding transient occupancy taxes that may be due from the owner of the property.
- (B) i. Complete the audit described in subparagraph (A) on or before 90 days after the date that the current or former owner's records are made available to the auditing jurisdiction and issue a tax clearance certificate within 30 days of completing the audit.
- ii. If, after completing the audit, the city, county, or city and county makes a determination that the current owner's records are insufficient to make a determination of whether transient occupancy taxes may be due and owing, the city, county, or city and county is not required to issue a tax clearance certificate as otherwise required by this subdivision. The city, county, or city and county shall, within 30 days of making that determination, notify the purchaser, transferee, or other person or entity that made the request that it will not issue a tax clearance certificate due to the insufficiency of the prior owner's records.
- (c) If a city, county, or city and county does not comply with subdivision (b), the purchaser, transferee, or other person or entity that obtains ownership of the property shall not be liable for any transient occupancy tax obligations incurred prior to the purchase or transfer of the property.
- (d) For a tax clearance certificate issued under this section, all of the following apply:
- 1) The certificate shall state the amount of tax due and owing for the subject property, if any.
  - 2) The certificate shall state the period of time for which it is valid.
  - 3) The purchaser, transferee, or other person or entity who obtains ownership of the property may rely upon the tax clearance certificate as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.
- (e) Any purchaser, transferee, or other person or entity described in subdivision (a) who does not obtain a clearance certificate under this section, or who obtains a tax clearance certificate that indicates that tax is due and fails to withhold, for the benefit of the city, county, or city and county, sufficient funds in the escrow account for the purchase of the property to satisfy the transient occupancy tax liability, shall be held liable for the amount of tax due and owing on the property.
- (f) This section may not be construed to relieve a property owner of transient occupancy tax obligations incurred when that owner owned the property.

**7283.51.** Notwithstanding any other provision of law, except in the case of fraud or the failure of a property owner to file a transient occupancy tax return, a city, county, or city and county may institute an action to collect unpaid transient occupancy taxes within four years of the date on which the transient occupancy taxes were required to be paid.

**STATE OF CALIFORNIA  
BOARD OF EQUALIZATION**

**SALES AND USE TAX REGULATIONS**

REGULATION 1603 – TAXABLE SALES OF FOOD PRODUCTS

**(a) RESTAURANTS, HOTELS, BOARDING HOUSES, SODA FOUNTAINS, AND SIMILAR ESTABLISHMENTS.**

**(1) DEFINITIONS**

**A. Boarding House.** The term “boarding house” as used in this regulation means any establishment regularly serving meals, on the average to five or more paying guests. The term includes a “guest home,” “residential care home,” “halfway house,” and any other establishment providing room and board or board only, which is not an institution as defined in Regulation 1503 and §6363.6 of the Revenue and Taxation Code. The fact that guests may be recipients of welfare funds does not affect the application of tax. A person or establishment furnishing meals on the average to fewer than five paying guests during the calendar quarter is not considered to be engaged in the business of selling meals at retail.

**B. American Plan Hotel.** The term “American Plan Hotel” as used in this regulation means a hotel which charges guests a fixed sum by the day, week, or other period for room and meals combined.

**C. Complimentary Food and Beverages.** As used in this subdivision (a), the term “complimentary food and beverages” means food and beverages (including alcoholic and non-alcoholic beverages) which are provided to transient guests on a complimentary basis and:

- a. There is no segregation between the charges for rooms and the charges for the food and beverages on the guests’ bills, and
- b. The guests are not given an option to refuse the food and beverages in return for a discounted room rental.

**D. Average Retail Value of Complimentary Food and Beverages.** The term “average retail value of complimentary food and beverages” (ARV) as used in this regulation means the total amount of the costs of the complimentary food and beverages for the preceding calendar year marked up one hundred percent (100%) and divided by the number of rooms rented for that year. Costs of complimentary food and beverages include charges for delivery to the lodging establishment but exclude discounts taken and sales tax reimbursement paid to vendors. The 100% markup factor includes the cost of food preparation labor by hotel employees, the fair rental value of hotel facilities used to prepare or serve the food and beverages, and profit.

**E. Average Daily Rate.** The term “average daily rate” (ADR) as used in this regulation means the gross room revenue for the preceding calendar year divided by the number of rooms rented for that year. “Gross room revenue” means and includes the full charge to the hotel customers but excludes separately stated occupancy taxes, revenue from contract and group rentals which do not qualify for complimentary food and beverages, and revenue from special packages (i.e., New Year’s Eve packages which include food and beverages as well as guest room accommodations), unless it can be documented that the retail value of the food and beverages provided as a part of the special package is 10% or less of the total package charge as provided in subdivision (a)(2)(B). “Number of rooms rented for that year” means the total number of times all rooms have been rented on a nightly basis provided the revenue for those rooms is included in the “gross room revenue”. For example, if a room is rented out for three consecutive nights by one guest, that room will be counted as rented three times when computing the ADR.

## (2) APPLICATION OF TAX

**A. In General.** Tax applies to sales of meals or hot prepared food products (see (e) below) furnished by restaurants, concessionaires, hotels, boarding houses, soda fountains, and similar establishments whether served on or off the premises. In the case of American Plan hotels, special packages offered by hotels, i.e., a New Year's Eve package as described in subdivision (a)(1)(E), and boarding houses, a reasonable segregation must be made between the charges for rooms and the charges for the meals, hot prepared food products, and beverages. Charges by hotels or boarding houses for delivering meals or hot prepared food products to, or serving them in, the rooms of guests are includable in the measure of tax on the sales of the meals or hot prepared food products whether or not the charges are separately stated. (Caterers, see (h) below.) Sales of meals or hot prepared food products by restaurants, concessionaires, hotels, boarding houses, soda fountains, and similar establishments to persons such as event planners, party coordinators, or fundraisers, which buy and sell on their own account, are sales for resale for which a resale certificate may be accepted (see subdivision (h)(3)(C)2.).

Soufflé cups, straws, paper napkins, toothpicks and like items that are not of a reusable character which are furnished with meals or hot prepared food products are sold with the meals or hot prepared food products. Sales of such items for such purpose to persons engaged in the business of selling meals or hot prepared food products are, accordingly, sales for resale.

**B. Complimentary Food and Beverages.** Lodging establishments which furnish, prepare, or serve complimentary food and beverages to guests in connection with the rental of rooms are consumers and not retailers of such food and beverages when the retail value of the complimentary food and beverages is "incidental" to the room rental service regardless of where within the hotel premises the complimentary food and beverages are served. For complimentary food and beverages to qualify as "incidental" for the current calendar year, the average retail value of the complimentary food and beverages (ARV) furnished for the preceding calendar year must be equal to or less than 10% of the average daily rate (ADR) for that year.

If a hotel provides guests with coupons or similar documents which may be exchanged for complimentary food and beverages in an area of the hotel where food and beverages are sold on a regular basis to the general public (i.e., a restaurant), the hotel will be considered the consumer and not the retailer of such food and beverages if the coupons or similar documents are non-transferrable and the guest is specifically identified by name. If the coupons or similar documents are transferable or the guest is not specifically identified, food and beverages provided will be considered sold to the guest at the fair retail value of similar food and beverages sold to the general public. In the case of coupons redeemed by guests at restaurants not operated by the lodging establishment, the hotel will be considered the consumer of food and beverages provided to the hotel's guests and tax will apply to the charge by the restaurant to the hotel.

Lodging establishments are retailers of food and beverages which do not qualify as "incidental" and tax applies as provided in subdivision (a)(2)(A) above. Amounts paid by guests for food and beverages in excess of a complimentary allowance are gross receipts subject to the tax. Lodging establishments are retailers otherwise complimentary food and beverages sold to non-guests.

In the case of hotels with concierge floor, club level, or similar programs, the formula set forth above shall be applied separately with respect to the complimentary food and beverages furnished to guests who participate in the concierge, club, or similar program. That is, the concierge, club or similar program will be deemed to be an independent hotel separate and apart from the hotel in which it is operated. The ADR and the retail value of complimentary food and beverages per occupied room will be computed separately with respect to the guest room accommodations entitled to the privileges and amenities involved in the concierge, club, or similar program.

The following example illustrates the steps in determining whether the food and beverages are complimentary:

**FORMULA:**  $ARV \div ADR \leq 10\%$

**Average Daily Rate (ADR):**

Room Revenue	\$9,108,000
Rooms Rented	74,607
ADR (\$9,108,000 ÷ 74,607)	\$122.08

**Average Retail Value of Complimentary Food and Beverages (ARV):**

Complimentary Food Cost	\$169,057
Complimentary Beverage Cost	52,513
Total	\$221,570
Add 100% Markup	221,570
Average Retail Value	\$443,140
ARV per occupied room (\$443,140 ÷ 74,607)	\$5.94

**Application of Formula:**  $\$5.94 \div \$122.08 = 4.87\%$

In the above example, the average retail value of the complimentary food and beverages per occupied room for the preceding calendar year is equal to or less than 10% of the average daily rate. Therefore, under the provisions of this subdivision (a)(2)(B), the complimentary food and beverages provided to guests for the current calendar year qualify as “incidental”. The lodging establishment is the consumer and not the retailer of such food and beverages. This computation must be made annually.

When a lodging establishment consists of more than one location, the operations of each location will be considered separately in determining if that location’s complimentary food and beverages qualify as incidental.

- C. “Free” Meals.** When a restaurant agrees to furnish a “free” meal to a customer who purchases another meal and presents a coupon or card, which the customer previously had purchased directly from the restaurant or through a sales promotional agency having a contract with the restaurant to redeem the coupons or cards, the restaurant is regarded as selling two meals for the price of one, plus any additional compensation from the agency or from its own sales of coupons. Any such additional compensation is a part of its taxable gross receipts for the period in which the meals are served.

Tax applies only to the price of the paid meal plus any such additional compensation.

# **Transient Occupancy Tax Ordinance**

**SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX**

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## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### 5.20.010 Definitions

For the purpose of interpreting this chapter, the following definitions are intended to be controlling:

- a) "County" means the County of Sierra, a political division of the State of California.
- b) "Day", unless otherwise specified, means calendar day.
- c) "Delinquency" means the failure to do any act required to be done pursuant to this chapter, at the time required by this chapter.
- d) "Lodging" shall mean any building, portion of a building, reserved outdoor space, or other premises or area rented for use by transients for overnight accommodations. A "lodging" shall refer to the following premises, including but not limited to: motel, hotel, inn, tourist home, vacation home rental property, bed and breakfast, rooming house, apartment house, mobile home park, recreational vehicle park, campground, or parking area, or any property rented to a "transient" as defined below. (Ord. 834, eff. 4/16/96, prior Ord. 377, 786, 807).
- e) "Occupancy" means the use, or the right to use, any lodging.
- f) "Operator" means the person who is proprietor of the lodging whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or in any other capacity. Whether the operator performs his or her duties through a contracted managing agent of any type or character other than that of an employee, the managing agent shall also be deemed to be an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. If the contract between the operator and the managing agent so states, the managing agent shall be solely responsible for the duties and liabilities of the operator. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both. (Ord. 834, eff. 4/16/96).
- g) "Person" shall mean 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.
- h) "Rent" means any fee, charge, or other valuable consideration received by an operator as gross proceeds paid by a transient (defined below) for lodging. The "rent" shall be valued in money, whether it is received in money or in-kind goods or services. "Rent" shall include all services of any kind or nature prior to any deduction for any reason whatsoever.
- i) "Tax" means the transient occupancy tax imposed by this chapter.
- j) "Tax Collector" means the Tax Collector of the County of Sierra.
- k) "Transient" means any person having occupancy of a lodging for a period of thirty (30) consecutive calendar days or less regardless of the form of agreement, license, permit or entitlement. Any person actually occupying a lodging shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement, in writing, between the operator and the occupant providing for a longer period of occupancy. (Ord. 807, eff. 10/07/93, prior 786, 377).

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### **5.20.020 Twelve and a Half Percent Tax Imposed**

For the privilege of occupying a lodging within the unincorporated areas of the County, each transient shall pay a tax in the amount of twelve and a half percent (12.5%) of the rent charged. This tax constitutes a debt owed by the transient to the County and that debt can be satisfied only by payment in full to the operator or to the County. Upon payment of the tax to the operator, the tax constitutes a debt owed by the operator to the County. (Ord. 834, eff. 4/16/96, prior 377, 659, 786, 789)

### **5.20.030 Payment Schedule**

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, the proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's termination of the lodging. The Tax Collector may, at the Tax Collector's sole option, require that the tax be paid directly to the Tax Collector by the transient. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.040 Exemptions**

No tax shall be imposed upon the following transients:

- a) Any person, or upon the privilege of the occupancy, if it is beyond the power of the County to impose the tax provided in this chapter.
- b) Any officer or employee of a foreign government who is exempt by reason or express provision of federal law or international treaty.
- c) Employees of federal, state, county and other governmental entities shall not be exempt from the payment of this tax.
- d) No exemption of transients shall be granted except upon a claim for exemption made at the time rent is collected, and under penalty of perjury, upon a form prescribed by the Tax Collector.
- e) No occupancy of the following classifications of lodgings shall be subject to the tax:
  - i. An "organized camp" as defined in Section 18897 of the California Health and Safety Code.
  - ii. Housing operated by or used exclusively for religious, charitable, or educational purposes by any organization which has obtained exemption from property taxes under the laws of California for the period the tax would otherwise be imposed.
  - iii. Any State campground operated by the State government. (Concessionaires operating State campgrounds are subject to the tax).

(Ord. 972, eff. 7/1/06, prior Ord. 377, 383, 786)

### **5.20.050 Operator Duties**

Each operator shall collect the tax imposed by this chapter at the same time that the rent is collected from the transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive from the operator a receipt for payment of tax. Failure to impose or collect the tax shall not relieve the operator from the obligation to pay the tax due under this chapter. 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 provided in this chapter.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### **5.20.060 Registration of Operators**

Each operator of a lodging located within the unincorporated area of the County shall register the lodging with the Tax Collector within thirty (30) days after commencing business. The Tax Collector shall provide the operator a "Transient Occupancy Registration Certificate" which shall be posted at all times in a conspicuous place at the lodging. The certificate shall include, but is not limited to, the following information:

- a) The name of the operator.
- b) The address of the lodging.
- c) The date upon which the certificate was issued.
- d) A statement to the effect that the certificate means that the operator has registered for the purpose of collecting and remitting the tax and that the certificate is not to be construed as a permit or authorization for any other purpose.

(Ord. 786, eff. 7/18/92, prior Ord. 377, 383)

### **5.20.070 Reporting and Remitting**

- a) Each operator shall make a report to the Tax Collector, on forms provided by the Tax Collector, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter or longer reporting period which may be established by the Tax Collector.
- b) The report shall include the total rents charged, total rents from transient occupancy, the amount of tax collected for transient occupancy and any further information required by the Tax Collector. The Tax Collector may establish shorter, longer, or other reporting periods for any certificate holder if the Tax Collector deems it necessary or expedient in order to ensure collection of the tax.
- c) At the time the report is filed, the full amount of the tax collected shall be paid to the Tax Collector. Returns and payments are due immediately upon cessation of business for any reason.
- d) All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the County until payment of the tax is made to the Tax Collector.

(Ord. 834, eff. 4/16/96, prior Ord. 377, 786)

### **5.20.075 Payment by Mail**

A payment shall be deemed received on the date shown by the post office cancellation mark stamped upon the envelope containing the remittance. (Ord. 834, eff. 4/16/96)

### **5.20.080 Original Delinquency**

Any transient who fails to pay, and any operator who fails to collect or fails to remit to the Tax Collector any tax imposed by this chapter within the time required, shall pay a penalty of ten percent (10%) of the amount of the tax owed in addition to the amount of the tax. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.090 Continued Delinquency**

Any person who fails to pay, and any operator who fails to collect or fails to remit to the Tax Collector any tax imposed by this chapter on or before a period of thirty (30) days following the date on which the payment first became delinquent, shall pay a second delinquency penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax and the 10% penalty first imposed.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### **5.20.100 Fraud**

If the Tax Collector determines that the non-payment of any sum due under this chapter is attributable to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added to the tax in addition to the penalties stated in Section 5.20.090 and 5.20.100. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.110 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 percent (1%) per month or fraction of a month on the amount of the tax, exclusive of penalties, from the date on which the payment first became delinquent until paid. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.120 Penalties Merged with Tax**

Every penalty imposed and such interest as accrues under the provisions of this chapter shall become a part of the tax required to be paid. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.130 Failure to Collect or Report**

- a) **Tax Collector to Estimate Tax Due:** In the event that any operator fails or refuses to collect the tax imposed by this chapter, or to make, within the time provided in this chapter, any required report or any payment of the tax or any portion of the tax required by this chapter, the Tax Collector may make an estimate of the tax due. In making the estimate, the Tax Collector shall proceed in the manner the Tax Collector deems appropriate to obtain facts and information on which to base an estimate of the tax due. In the absence of information which the Tax Collector deems most appropriate, it shall be deemed appropriate for the Tax Collector to estimate the tax by multiplying the number of days in the reporting period by the estimated number of lodging units customarily available for rent by the operator and then multiplying such resultant number by the estimated average rent for the subject lodging units or similar lodging units and thereafter multiplying that resultant number by the tax rate. The foregoing shall not limit the Tax Collector in estimating the tax due but if utilized shall in and of itself be deemed reasonable.
- b) **Notice of Tax Due:** The Tax Collector shall proceed to determine and assess against the operator the tax, interest, and penalties due as provided for by this chapter. The Tax Collector shall give a notice of the amount so assessed by mail or personal service addressed to all persons so assessed at their last known addresses.
- c) **Tax Is Final If Hearing Not Requested:** The operator may make application in writing to the Tax Collector for a hearing on the amount assessed within ten (10) calendar days after personal service of any notice of taxes or within fifteen (15) days from the date of mailing of any notice of taxes due. 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 Collector shall become final and conclusive and shall be immediately due and payable. (Ord. 786, eff. 7/18/92, prior Ord. 377)
- d) **Separate Trust Account:** The Tax Collector may require the Operator to establish a separate trust account for deposit of the taxes as they are collected. The bank account shall be established in the ownership of Sierra County. (Ord. No. 834, eff. 4/16/96)

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### 5.20.140 Appeals Process

- a) **Hearing and Dispute Resolution:** In the event that an operator applies for a hearing within the time prescribed, the Tax Collector shall give at least fifteen (15) days written notice to the operator of the time and place of the hearing by mail or at least ten (10) days' notice if by personal service. Such hearing may be held at any time within sixty (60) days of receipt of application for the hearing by the Tax Collector. At the hearing, the operator may appear and offer evidence why the specified tax, interest, or penalties should not be so established.
- b) **Determination of Tax:** Within thirty (30) days after the hearing, the Tax Collector shall determine the proper tax to be remitted and shall give written notice to the person by personal service or certified mail of the determination and the amount of the tax, interest, and penalties. The total due shall be payable fifteen (15) days from mailing or serving of notice unless an appeal is made as provided in section 5.20.140(c).
- c) **Appeal from Initial Hearing:** Any operator aggrieved by any decision of the Tax Collector with respect to the amount of the tax, interest, or penalties may appeal to the Sierra County Uniform Appeals Committee by filing a written notice of appeal with the County Clerk within fifteen days of personal service or twenty (20) days from the date of mailing of the determination of tax due. The appeals procedure and the rules governing the hearing(s) shall be consistent with the Sierra County Uniform Appeals Procedure specified in Sierra County Resolution No. 90-272, as amended. Any operator or the Tax Collector, dissatisfied with the results of the determination of the Uniform Appeals Committee may appeal to the Sierra County Board of Supervisors pursuant to the Sierra County Uniform Appeals Procedure. Any determination on the matter by the Sierra County Board of Supervisors shall be deemed final. No appeal may be taken without first having completed the Initial Hearing process set forth in 5.20.140(a).
- d) **Limitation of Issues on Appeal:** The issues on appeal shall be limited to:
  1. Operator named on the tax bill is not correct.
  2. Estimated tax is based on incorrect number of units.
  3. Estimated tax is based on incorrect lodging rates.
  4. Estimated tax is based on incorrect occupancy rates. (Ord. 786, eff. 7/18/92, prior Ord. 377)
- e) **Payment of Tax a Condition of Appeal:** After the determination of an amount of tax due from any operator has been made following an Initial Hearing as specified in 5.20.140(a) above, an operator must pay the tax as specified in the notice as a condition precedent to filing an appeal. Failure to pay such tax, together with penalties and interest thereon, if any, shall result in the appeal being denied. In the event that it is ultimately determined that the whole or any part of the tax, interest and penalties was not due, the operator shall be entitled to a full refund of all the amounts paid but determined not to be due together with interest at the rate prescribed by *Revenue & Taxation Code* 5151. The County may retain without interest those funds ultimately determined to be due to the County pursuant to this chapter.

(Ord. 834, eff. 4/16/96, prior Ord. 377, 786)

### 5.20.150 Records and Audits

- a) 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 (3) years, all records that may be necessary to permit verification of the amount of the tax. As a minimum, the records deemed necessary for this verification shall be relevant income tax information, a chronological listing of transients, cash journal, or other means of summarizing the operator's quarterly revenue, supported by a file or other record of sequential registrations, which may with reasonable effort, be identified with the revenue summary, banking records for operator's business related to rental income and expenses including bank statements, deposit records, checks and check stubs, journals and general ledger, income and expense statements and

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

balance sheet. These records shall be available, at all reasonable times, for audit by the tax collector or the Tax Collector's designated representative.

- b) The Tax Collector or a designated representative may conduct audits of the records in order to verify compliance with the requirements of this chapter. The operator's records and the auditor's records shall be confidential records not subject to public disclosure with the following exceptions:
  - i. As necessary in the performance of official duty pursuant to this chapter.
  - ii. In the course of any proceeding, hearing, or litigation involving the existence or amount of the tax liability of the operators.
  - iii. Upon written consent of the operator or his or her authorized representative.
- c) When an audit results in additional payments due to the county, the operator shall be notified of the amount due, including any applicable penalties and interest and the total shall be due and payable immediately.
- d) Any operator dissatisfied with the audit results may file for a hearing and proceed with the appeals process, all as set forth in section 5.20.140 (a) through (e) above.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.160 Refund by Written Claim**

The amount of any tax, penalty, or interest may be refunded if it has been overpaid or paid more than once or has been erroneously or illegally collected or received by the County under this chapter. A written claim for refund must be filed with the Tax Collector within three (3) years of the date of payment stating, under penalty of perjury, the specific grounds upon which the claim is founded. The claim shall be on a form provided by the Tax Collector.

- a) An operator may obtain a refund or take as a credit against taxes collected and paid, the amount overpaid, paid more than once, or erroneously or illegally collected or received, or when it is established in a manner prescribed by the Tax Collector that the person from whom the tax has been collected was not a transient or upon any other facts or circumstances the Tax Collector deems relevant. However, neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the occupant or credited to rent subsequently payable by the occupant to the operator.
- b) A transient may obtain a refund of taxes overpaid, or paid more than once, or erroneously or illegally collected or received by the County, but only when the tax was paid by the transient directly to the Tax Collector, or when the transient having paid the tax to the operator establishes to the satisfaction of the Tax Collector that the transient has been unable to obtain a refund from the operator who collected the tax.
- c) No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records reasonably proving that the claimant is entitled to the refund.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

### **5.20.170 Recording Certificate of Lien**

The Tax Collector may record a certificate of lien in the office of the Sierra County Recorder, within three (3) years after the amount required to be paid to the county under this chapter is not paid when due. The certificate shall specify the amount of tax, penalties, and interest due, the name and address as it appears on the records of the Tax Collector of the operators liable for the tax and the fact that the Tax Collector has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the filing for record, the amount required to be paid together with penalties and interest constitutes a lien upon all real and personal property in the county owned by the operator or afterwards acquired by operator prior to the expiration of the lien. The lien has the force, effect and priority of a judgment lien and shall continue for ten (10) years from the time of filing of the certificate unless sooner released or otherwise discharged. The lien may be extended for two additional ten-year periods by re-recording the original lien. The lien may be recorded in any other county in which the operator may have property. (Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.180 Priority and Lien of Tax**

The amounts required to be paid by any operator under this chapter with penalties and interest shall be satisfied first in any of the following cases:

- a) Whenever the person is insolvent,
- b) Whenever the person makes a voluntary assignment of his or her assets,
- c) Whenever the estate of the person in the hands of the executors, administrators, or heirs is insufficient to pay all the debts due from the deceased.
- d) Whenever the estate and effects of an absconding, concealed or absent person required to pay any amount under this chapter are levied upon by process law,
- e) Whenever a lien recorded hereunder is senior to other claimant interest.

(Ord. 786, eff. 7/18/92, Ord. 377)

### **5.20.190 Tax Collector Remedies**

The Tax Collector may utilize any remedy available for the collection of taxes to enforce collection of the tax under this chapter, including seizure and sale (Revenue and Taxation Code ' 2951 et seq.). 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 by the Tax Collector in the name of the County of Sierra, as plaintiff, for the recovery of the tax, penalties and interest and costs of collection, including but not limited to attorneys' and County Counsel's fees.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.200 Change in Ownership**

When ownership of a lodging is transferred, the following duties arise:

- a) Duty of transferor (seller). Prior to a change of ownership of a lodging, the transferor or operator of the lodging shall give written notice to the Tax Collector of the sale no later than fifteen days before the close of escrow or the transfer of title. The transferor shall request and complete a final transient occupancy report form and pay upon close of escrow or upon delivery of title or transfer, whichever first occurs, all taxes, penalties, and interest due in addition to any unsecured property taxes which are a statutory lien against the transferor.

## SIERRA COUNTY CODE: CHAPTER 5.20 TRANSIENT OCCUPANCY TAX

- b) Duty of transferee (buyer). Prior to the change in ownership of a lodging, the transferee or prospective operator of the lodging shall give written notice to the Tax Collector of the sale no later than fifteen (15) days before the close of escrow or the transfer of title. The transferee shall retain from the purchase price the amount for which the transferor is liable until the transferor produces a certificate from the Tax Collector stating that the taxes have been paid. If the tax is not paid as provided in this chapter, the Tax Collector shall request the retained amount from the transferor. The transferor shall pay the request within ten (10) days.
- c) Effect of notice. If proper notice is given by the parties to the transfer of ownership of a lodging, an audit may be performed by the Tax Collector in order to determine any tax liability of the transferor prior to the change of ownership. If proper notice was given, the county will release the transferee from any tax liability arising prior to the change of ownership, even if no audit was conducted.
- d) This section shall be deemed constructive notice to all new owners of lodgings that they shall assume liability for all unpaid taxes when the Tax Collector is not properly notified as set forth in this section.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.210 Violation a Misdemeanor**

- a) In addition to any civil remedy for the collection of taxes, any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment.
- b) Any operator or other person liable under the provisions of this chapter who fails or refuses to register as required in this chapter, or who fails or refuses to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the Tax Collector, or who renders a false or fraudulent return or claim is guilty of a misdemeanor and is punishable as set forth in subsection (a) of this section. Any person required to make, render, sign, or verify any report or claim, who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as set forth in subsection (a) of this section.

(Ord. 786, eff. 7/18/92, prior Ord. 377)

### **5.20.220 Civil Remedies**

In addition to any and all other remedies provided herein, the Tax Collector may utilize any and all civil remedies available to the Tax Collector at law or in equity not otherwise prohibited by law or inconsistent with the provisions of this chapter. (Ord. 786, eff. 7/18/92)

### **5.20.225 Implementation Date for Reserved Outdoor Space**

The Transient Occupancy Tax shall be applied to reserved outdoor spaces, including but not limited to recreational vehicle park, campground, or parking area, effective January 1, 1993.

(Ord. 792, eff. 9/5/92)

### **5.20.230 Severability**

If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are hereby declared to be severable.

(Ord. 786, eff. 7/18/92)

# **ORDINANCE NO. 1092**

**AN ORDINANCE AMENDING SECTION 5.20.020 OF THE SIERRA COUNTY CODE TO INCREASE THE COUNTY'S TRANSIENT OCCUPANCY TAX RATE FROM 10 TO 12.5 PERCENT, SUBJECT TO APPROVAL OF TWO-THIRDS OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE NOVEMBER 3, 2020 GENERAL ELECTION**

Exhibit "A"

**BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA**

**ORDINANCE NO. 1092**

**AN ORDINANCE AMENDING SECTION 5.20.020 OF THE SIERRA COUNTY CODE TO INCREASE THE COUNTY'S TRANSIENT OCCUPANCY TAX RATE FROM 10 TO 12.5 PERCENT, SUBJECT TO APPROVAL OF TWO-THIRDS OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE NOVEMBER 3, 2020 GENERAL ELECTION**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA ORDAINS as follows:**

**Ordinance Section One:**

**Section 5.20.020 of the Sierra County Code is amended to read:**

- For the privilege of occupying a lodging within the unincorporated areas of the county, each transient shall pay a tax in the amount of 12.5 percent of the rent charged. This tax constitutes a debt owed by the transient to Sierra County, and that debt can be satisfied only by payment in full to the operator or to Sierra County. Upon payment of the tax to the operator, the tax constitutes a debt owned by the operator to Sierra County.

The 12.5 percent tax will be allocated as follows:

- 10 percent is a general purpose tax, the revenues of which may be used for any lawful municipal purpose.
- 2.5 percent is a special purpose tax, the revenues of which are dedicated solely for the Downieville Fire Protection District, Sierra City Fire District, Pliocene Ridge Community Services District, and the Sierra County Fire Protection District No. 1 for the purpose of providing emergency medical, fire or rescue services. Each district shall receive the 2.5 percent of tax collected within their respective districts annually from Sierra County.

**Ordinance Section Two:**

This ordinance is adopted pursuant to the Revenue and Taxation code section 7280.

**Ordinance Section Three:**

This ordinance shall not become operative unless and until two-thirds of the electors voting on this ordinance approve the imposition of the tax at the General Election to be held on November 3, 2020.

**Ordinance Section Four:**

This ordinance relates to the levying and collecting of the County transient occupancy tax ("TOT") and shall take effect only if approved by two-thirds of the voters voting on the measure at the November 3, 2020 General Election, and if approved, shall become effective July 1, 2021.

**Ordinance Section Five:**

This ordinance shall take effect as described in Ordinance Section Four above. Before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors, voting for and against the ordinance in the Mountain Messenger, a newspaper of general circulation published in the County of Sierra, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the 7<sup>th</sup> day of July, 2020, and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the 21st day of June, 2020, by the following roll call vote, to-wit:

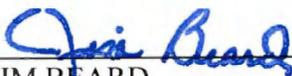
AYES: Supervisor Adams, Huebner, Roen, Dryden, and Beard

NOES: None

ABSTAIN: None

ABSENT: None

COUNTY OF SIERRA

  
\_\_\_\_\_  
JIM BEARD  
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
HEATHER FOSTER  
CLERK OF THE BOARD

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DAVID PRENTICE  
COUNTY COUNSEL

# **RESOLUTION NO. 2022-136**

**IN THE MATTER OF APPROVING AN AMENDMENT TO SIERRA  
COUNTY CODE CHAPTERS 15.08 AND 15.10 PERTAINING TO  
SHORT-TERM RENTALS**

**BOARD OF SUPERVISORS  
COUNTY OF SIERRA  
STATE OF CALIFORNIA**

**RESOLUTION NO. 2022-136**

**IN THE MATTER OF APPROVING  
AN AMENDMENT TO  
SIERRA COUNTY CODE CHAPTERS 15.08 AND 15.10  
PERTAINING TO SHORT-TERM RENTALS**

**WHEREAS**, the Sierra County Planning Commission conducted public workshops on March 11, 2021; April 15, 2021; May 27, 2021; February 10, 2022; and March 10, 2022, including open discussions and soliciting comments pertaining to proposed amendments of the Sierra County Zoning Code Chapters 15.08 and 15.10 to regulate Short Term Rentals; and, whereas the Planning Commission held duly noticed public hearings on proposed draft regulations on April 20, 2022, May 12, 2022 and June 16, 2022 to consider all public comments as well as Planning Department staff's analysis including recommendations contained within Staff Recommendation No. 1237; and having concluding the public hearing on June 16, 2022 the Planning Commission adopted Resolution #2022-02 recommending to the Board of Supervisors approval of a draft ordinance; and,

**WHEREAS**, the Sierra County Board of Supervisors conducted duly-noted public hearings on September 6, 2022 and continued the hearing to September 20, 2022 to allow adequate public testimony and comments on the matter; and, after closing the public comment period, did carefully consider the comments received and deliberate with one another and gave direction to staff to return with a final draft of a proposed ordinance, and continued the matter to their regularly scheduled meeting on October 4, 2022 where staff did present the Board of Supervisors with a final draft reflecting the Board's previous comments and direction; and,

**WHEREAS**, the Board of Supervisors determined that the modifications to the proposed ordinance, when compared to the version recommended for their approval by the Planning Commission, were minor and did not introduce anything that had not previously been considered by the Planning Commission, and therefore did not warrant referring the matter back to the Planning Commission for report and recommendation, pursuant to Government Code Section 65857.

**NOW THEREFORE BE IT RESOLVED BY THE SIERRA COUNTY BOARD OF SUPERVISORS**, that based upon the Record of Proceedings from the Board of Supervisors public hearing, including the Planning Commission Administrative Record, the Board of Supervisors hereby accepts and adopts the findings contained within this Resolution; Planning Commission Resolution no. 2022-02; and Staff Report and Recommendation no. 1237, and similarly finds that the project is exempt from CEQA; and does hereby approve the proposed

zoning amendments and the adoption of the ordinance introduced at the regularly scheduled Board meeting on October 4, 2022 pertaining to the regulation of Short Term Rentals in unincorporated Sierra County.

**ADOPTED BY THE BOARD OF SUPERVISORS** of the County of Sierra on the 18th day of October, 2022 by the following vote:

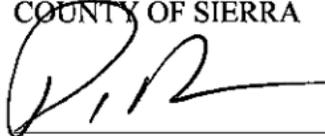
**AYES:** Supervisors Adams, Huebner, LeBlanc, Dryden, and Roen

**NOES:** None

**ABSTAIN:** None

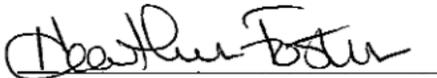
**ABSENT:** None

COUNTY OF SIERRA



Paul Roen, Chair  
Board of Supervisors

**ATTEST:**



Heather Foster  
Clerk of the Board

**APPROVED AS TO FORM:**



David Prentice  
County Counsel

# **FREQUENTLY ASKED QUESTIONS**

## FREQUENTLY ASKED QUESTIONS REGARDING TRANSIENT OCCUPANCY TAX

### Clarification of “Rent”

#### **1. What is included in “gross rent” as shown on the collections report?**

Gross rent is the amount of money charged for a guest to occupy a unit whether or not that amount was actually received. Gross rent includes the value in money charged for transient rentals and long-term rentals whether in money, goods, labor, or other in-kind exchange.

#### **2. What about food and beverages with the room?**

The total amount of the rental is subject to TOT if the food and beverages are “complimentary” according to the State Board of Equalization. In general, food and beverages provided are considered complimentary and not subject to sales tax if all the following conditions exist:

- a) There is no segregation between the charges for rooms and the charges for food.
- b) The guests are not given the option to refuse the food and beverages in exchange for a reduction in the room rental.
- c) The cost of the food and beverages provided plus a 100% markup factor does not exceed 10% of the total rental rate.

When the value of meals provided exceeds 10%, the value must be separated, with sales tax applied to the meal portion and TOT applied to the balance.

Please see BOE Regulation 1603(a) in the reference section (pages 9-10 in this handbook) for a more specific explanation and how to calculate the value of the meals.

#### **3. What is NOT included in “gross rent”?**

Rent does not include the amount the occupant is charged for taxes. Gross rent does not include gift certificate purchases, advance deposits, refunds of advanced deposits, cancellation fees, or no-show fees.

#### **4. If cleaning fees are charged, should TOT be collected?**

Yes. All cleaning FEES are subject to TOT. Refunded cleaning DEPOSITS are not subject to TOT.

### Exemptions

#### **5. Who is exempt from paying the TOT?**

Foreign government officials on official business and persons renting for more than 30 consecutive days are exempt. Foreign officials must complete an exemption form which is included in this handbook. Foreign officials **do not include** any state, federal, or local government officials.

#### **6. If an occupant planned to stay over 30 days, but stays less than 30 days, should TOT be charged?**

If the occupant intends to stay 30 days or more, a Non-Transient Certificate must be completed by the occupant upon check-in. If the occupant does not stay the full thirty days or more, the document is invalid, and the transient occupancy tax must be collected for the full time of the stay.

#### **7. If an occupant has not originally planned to stay over 30 days, but does, should a refund of the TOT be given?**

Yes. A refund or a credit toward the rentals should be given. If the tax was already reported for a previous quarter, note the adjustment on the next TOT report and deduct it from the total due.

## FREQUENTLY ASKED QUESTIONS REGARDING TRANSIENT OCCUPANCY TAX

### **8. *What should I do if I stop renting on a transient occupancy basis?***

If you discontinue renting on a transient basis, please notify the Tax Collector immediately. We will send you a claim of exemption form to complete and sign under penalty of perjury. After we have received the completed form, we will remove your business from reporting status, and you will no longer receive quarterly tax returns. It will be your responsibility to notify us if you resume renting on a transient basis. You are liable to collect and remit the tax whenever renting on a transient basis. This procedure does not apply to businesses that are seasonal. If you are closed during the winter, or for construction, etc., please note this on your quarterly TOT return and submit with timely postmark to the TTC Office.

### **Gift Certificate and Advance Deposits**

### **9. *If a gift certificate is purchased or an advance deposit is made but not used during a period, should these be reported at time of purchase or at the time of occupancy?***

The rent and tax charged at the time of occupancy should be reported during the period in which the actual occupancy occurred, not the time of purchase or deposit.

### **10. *How are gift certificates or advance deposits handled that have not been used and the recipient cannot be found by operator?***

Until occupancy occurs, the tax is not due, and the income is not reported as rent.

### **11. *If the County TOT rate has increased since the date of purchase of a gift certificate, what rate would be charged?***

The tax rate in effect at the time of occupancy is the rate charged to the occupant.

### **12. *How do gift certificates and donations differ and how is each reported?***

A gift certificate is **purchased**, and the tax is not due or reported until the occupancy occurs. A donation is **given** with no cash value received in return; therefore, no TOT is reported.

### **Refunds of Advance Deposits and Cancellation Fees**

### **13. *Should refunds of advance deposits be reported as an adjustment on the TOT report?***

No. The receipt of the advance deposit is not reported when it is received, and a refund of an advance deposit should not be reported as an adjustment. No tax has been paid; therefore, no adjustment is necessary.

### **14. *If a cancellation fee is charged or retained, should it be reported to the County?***

No. There was no occupancy, so no tax is due.

## FREQUENTLY ASKED QUESTIONS REGARDING TRANSIENT OCCUPANCY TAX

### **Overpayment of Tax**

**15. *If the tax is incorrectly reported on the TOT return and paid to the County, how is the adjustment made?***

The report for the quarter in which the error was made should be adjusted and sent to the Tax Collector with a letter describing how the error occurred and the calculation of the overpayment. Documentation of the specific details of the situation must be kept in your files as part of the audit trail for at least three full calendar years.

The overpaid amount may be credited to the next quarter's tax liability or may be refunded upon request of the innkeeper if the overpayment is more than \$10.00. Overpayments of \$10.00 or less will be credited. The credit amount is shown on a separate line and adjusts the tax due.

### **Miscellaneous FAQs**

**16. *Do I have to complete all the information on the report?***

Yes. This reporting information is used to determine the accuracy of your records when audited, in addition to preparing statistical reports. The information is used as a basis for budgeting TOT revenue and to determine the effectiveness of advertising and promotion campaigns.

**17. *Is the information on the TOT report confidential?***

Yes. All information provided on the TOT report is confidential and is only used for governmental purposes. We provide information to the public regarding taxable receipts and TOT collected by area only and not by individual businesses.

**18. *Can I email the Tax Collector my return form?***

No. All return forms must be completed and mailed back to the Tax Collector's office with a timely post-mark in order to be considered a timely return.

**19. *Can I pay TOT taxes online?***

Yes. Although return forms must be completed and mailed back to our office, we have an online payment option located on the County website: [sierracounty.ca.gov/313/payments](http://sierracounty.ca.gov/313/payments)

### **Audits**

**20. *When will an audit be conducted?***

Audits are conducted when a business changes ownership or leased management and when warranted due to non-compliance with the Ordinance. Late reports, late payments, repeated non-cooperation when information or updates are requested are all examples of non-compliance. An audit may be necessary to verify an overpayment or adjustment to a reporting period. Random audits may also be conducted to ensure that the Ordinance is being applied fairly and uniformly throughout the unincorporated area of the County.

**21. *Should I notify the Tax Collector if I sell my business? Will I be audited?***

Please refer to TOT Ordinance Code Section 5.20.200 regarding Change in Ownership (pages 19-20 in this handbook). The seller and the buyer must each give written notice to the Tax Collector no later than fifteen days before the close of escrow or the transfer of title. Do not rely on the realtor or title company to notify us. The buyer shall retain from the purchase price the amount for which the seller is liable until the seller produces a certificate from the Tax Collector stating that the taxes have been paid. An audit may be performed in order to determine the tax liability of the seller before the change of ownership. The process of notifying the Tax Collector of the sale and conducting an audit prevents the buyer from assuming the liability of the seller.

**GUIDELINES FOR AUDITS  
AND  
REQUIRED INFORMATION**

**GUIDELINES FOR AUDITS AND REQUIRED INFORMATION**

**TRANSIT OCCUPANCY TAX AUDIT**

**Sample Questions**

**Business:** \_\_\_\_\_

**Contact Person:** \_\_\_\_\_

**Auditor:** \_\_\_\_\_

**Period of Time Audited:** \_\_\_\_\_

**Audit Date:** \_\_\_\_\_

1. If a computer program is used, what is the name of the program?

\_\_\_\_\_

2. Provide a copy of lodging rate schedule(s) for the period being audited. Ads and brochures are also helpful. Are discounts offered for extended stays, commercial customer, groups, etc.,?

\_\_\_\_\_

3. Physical audit of the number of rooms and the rates advertised.

	No. of Units:	Rates:
Units/Rooms	_____	_____
RV Spaces	_____	_____
Campsites	_____	_____
Mobile Homes/Trailers	_____	_____
Other	_____	_____

Are lodgings ever listed on a monthly basis? \_\_\_\_\_

If yes, is rental agreement provided for verification? \_\_\_\_\_

4. Verify the information on the TOT registration, note the differences.  
5. Is TOT registration posted in a visible place at the business? 5.20.060  
6. What were the dates the lodging was open during the year? (If seasonal)

\_\_\_\_\_

## GUIDELINES FOR AUDITS AND REQUIRED INFORMATION

7. Room registration documents: 5.20.150

No. of nights/room rate/name of guests on each? \_\_\_\_\_

Is tax amount separately stated? \_\_\_\_\_

Is document signed by guest? \_\_\_\_\_

Are the registration documents consistently complete? \_\_\_\_\_

Are discounts given and noted on the document? \_\_\_\_\_

8. *How are voided registration documents handled?*

All should be kept.

9. If one rate is quoted for both meals and lodging (such as a bed and breakfast operation) or other “package deals”, is the TOT being charged on the total?

\_\_\_\_\_

If not, what is the value of the meal? \_\_\_\_\_

Is there supported by documentation such as sales tax and TOT shown separately on the customer’s receipt? \_\_\_\_\_

10. Describe the system used to account for room rents and tax. Is it separated from other types of receipts from peripheral businesses?

\_\_\_\_\_

\_\_\_\_\_

11. How are advance payments and gift certificates handled?

Is TOT reported in the quarter in which the occupancy takes place?

Or is it reported in the quarter in which the payment is received?

Are all advance payments handled this way?

12. How are cancellation refunds handled? Is the total amount of the advance refunded or is a cancellation fee retained? (The cancellation fee is not taxable if the occupancy did not take place).

13. Review quarterly reports for trends and anomalies.

14. Revenues and cash receipts:

- a. Review the businesses accounting records, noting receipts and revenues from lodging rentals (including a review of any reservation book, logs, etc.).
- b. Review the business's bank statements for the months being audited, noting the number of deposits. Where deposits are significantly greater than revenues reported would indicate, ascertain the nature of the deposits.
- c. Review the business's federal income tax return and financial statements covering the quarter(s) being audited, noting the revenues reported from room rentals.

# **EXAMPLE FORMS**



# SIERRA COUNTY

TREASURER – TAX COLLECTOR

P.O BOX 376 • DOWNIEVILLE, CALIFORNIA 95936

TEL: (530) 289-3286 • WEB: [www.sierracounty.ca.gov](http://www.sierracounty.ca.gov)

## APPLICATION FOR TRANSIENT OCCUPANCY REGISTRATION

Please fill in all applicable spaces. For help with this form or for information, please call (530) 289-3286.

Name of Business: \_\_\_\_\_  
 (As advertised online)

Business Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ No. of Units: \_\_\_\_\_

Email Address: \_\_\_\_\_

Website (where advertised): \_\_\_\_\_

Corporation     Partnership     Sole Proprietorship    Date Effective: \_\_\_\_\_

Owner(s) Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

I declare under penalty of perjury that this statement is, to the best of my knowledge, true, correct, and complete.

Application By: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For Department Use Only**

APN No.: \_\_\_\_\_ TOT I.D No.: \_\_\_\_\_

# County of Sierra

Van Maddox, Treasurer – Tax Collector  
P.O Box 376  
Downieville, CA 95936  
TEL: (530) 289-3286  
EMAIL: [collector@sierracounty.ca.gov](mailto:collector@sierracounty.ca.gov)

Business Name: \_\_\_\_\_

Owner/Operator Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

RENTAL UNITS/DAYS IN QUARTER	
A) No. of Rooms	_____
B) Units Available X Days Available	_____
C) Units/Days Occupied	_____
D) Percentage of Occupancy	_____

<b>REPORTING PERIOD:</b>
<b>DUE ON OR BEFORE:</b>

## TRANSIENT OCCUPANCY TAX

Sierra County Code: Chapter 5.20

COMPLETE AND FILE A RETURN even though no tax may be due or you are unable to pay the tax.

The Tax Collector will not accept payment without a return form. CHANGE OF ADDRESS must be filed and reported immediately to the Sierra County Tax Collector. IF BUSINESS CHANGES OWNERSHIP, the Tax Collector must be notified at least 15 days prior to closing of escrow. Closing returns must be filed immediately, the tax due must be paid, and an audit will be conducted. Failure to comply could delay the closing of escrow.

### RENTAL REPORTING DATA

1. Gross rent from motel units, vacation homes, cabins, etc., \$ \_\_\_\_\_
2. Gross rent from campsites & RV spaces \$ \_\_\_\_\_
3. Less allowable deductions \$ \_\_\_\_\_
4. Less adjustments for prior periods \$ \_\_\_\_\_
5. Taxable receipts (line 1 + line 2 – line 3 – line 4) \$ \_\_\_\_\_

6. **12.5% Tax Due:** (0.125 X line 5) \$ \_\_\_\_\_

7. LATE PENALTY: 10% of line 6 if paid 1 to 30 days after DUE DATE; \$ \_\_\_\_\_  
Or, 20% of line 6 if paid more than 30 days after DUE DATE.

8. INTEREST: 1% per month interest. \$ \_\_\_\_\_  
(.01 X line 6 for each month after DUE DATE)

9. LESS CREDIT AMOUNT \$ \_\_\_\_\_

10. **Total Tax, Penalties, and Interest:** \$ \_\_\_\_\_  
(add lines 6, 7, and 8, subtract 9)

RETAIN ONE COPY FOR YOUR RECORDS

**Make checks payable to: SIERRA COUNTY TAX COLLECTOR**

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Signature

Print

Phone

Date

Electronic payments are accepted at [sierracounty.ca.gov](http://sierracounty.ca.gov) → Online Payments. A convenience fee is charged for this service.

## **INSTRUCTIONS FOR COMPLETEING TRANSIENT OCCUPANCY TAX RETURN**

**GENERAL GUIDELINES:** A tax must be charged on all room rents you collect, and this tax must be paid to the County. Room rents include all amounts collected, unless non-room rent items are separately identified on all copies of the receipt or other records. The amount charged for non-room rent items cannot be more than the prices normally charged for those items. Any operator offering a package rate must identify and list separately on all copies of the receipts or other records of the operator, the following items: 1) room portion of the package rate; 2) non-room portion of the package rate; 3) Transient occupancy tax charged on the room portion; and 4) any sales/use tax charged on the non-room portion. The operator is responsible for making sure that the amount charged for taxes on the room portion and the non-room portion of the package rate is correct. The operator must also show that the proper amounts of taxes were collected and paid to the correct agencies. Retain all records substantiating this return for three full calendar years. **FAILURE TO COLLECT, REPORT, AND PAY THE TAX, OR TO MAINTAIN THE NECESSARY RECORDS WILL RESULT IN AN ESTIMATE OF THE TAX DUE.**

**Line 1: GROSS RENTS FROM MOTEL LODGINGS:** On line 1, enter the total amount of room rents collected during the period covered by this form. "Rent" means the amount of money charged for a guest to occupy a room or rooms. Rent does not include the amount charged the occupant for taxes. Do not include advanced deposits because the occupancy has not occurred yet.

**Line 2: GROSS RENT FROM CAMPSITES & RV SPACES:** On line 2, enter the total amount of campsites and RV spaces rents collected during the period covered by this form. Rent does not include the amount charged to the occupant for taxes or advanced deposits.

**Line 3: LESS ALLOWABLE DEDUCTIONS:** On line 3, enter the amount of rent charged to a non-transient or exempt foreign dignitary. Allowable deductions may be taken for non-transients, if a "Non-Transient Certificate" is signed before the transient occupies the lodging. Otherwise, the first 30 days are taxable. After these first 30 days, the guest is no longer a transient, and becomes exempt from the tax.

**Line 4: LESS ADJUSTMENTS FOR PRIOR PERIODS:** On line 4, enter any adjustments to gross rents for a prior period. Adjustments must be one of the following types: a) reduction of room rates due to customer complaint about unsatisfactory services or goods; or b) corrections of errors or disputed room charges. For each adjustment to gross rents, you must keep a written documentation in your files listing: 1) date; 2) name of guest.; 3) room number; 4) dollar amount of the adjustment; 5) reason for the adjustment; and 6) signature of the authorizing person. Do not include refunds of advanced deposits because the tax is not reported or collected until the occupancy occurs. Since no tax has been paid, no adjustment is necessary.

**Line 5: TAXABLE RECEIPTS:** Line 1 + Line 2 - Line 3 - Line 4 = Line 5.

**Line 6: 12.5% TAX DUE:** On line 6, multiply the amount on line 5 by 12.5% and enter this tax due.

**Line 7: PENALTIES:** On line 7, if this return is delinquent, enter the penalty amount. If your reporting period is one month or longer, then your return is delinquent one calendar month after the close of each period. If this return is 1-30 days delinquent, multiply line 6 by 10% (0.10). If this return is delinquent 31 days or more, multiply line 6 by 20% (0.20).

**Line 8: INTEREST:** If you are required to pay a penalty on line 7, then you are also required to pay an interest charge of 1% for each month of delinquency. For example, if your return is delinquent one month, multiply line 6 by 1% (.01); if your return is delinquent two months, multiply line 6 by 2% (.02), etc. Enter the interest amount on line 8.

**Line 9: LESS CREDIT AMOUNT:** If you have received correspondence from our office stating you overpaid on a previous return, enter the overpayment amount on line 9.

**Line 10: TOTAL TAX, PENALITIES, AND INTEREST:** Add the amounts on lines 6, 7, and 8; subtract line 9. Enter the total on line 10.

### **INSTRUCTIONS TO COMPLETE SECTION ON RENTAL UNITS/DAYS IN QUARTER** (Top right corner on front of report)

This information will be used to calculate the percentage of occupancy.

- A. NUMBER OF ROOMS: Number of room available for transient rental.
- B. NUMBER OF RENTAL UNITS/DAYS AVAILABLE: Multiply the number of units available for rent times the number of days you are open for business during the reporting period. (Ex: 10 units x 82 days = 820-unit days available).
- C. NUMBER OF UNITS/DAYS OCCUPIED: Count the number of units actually rented each day during the reporting period. (Ex: 10 units available, Day 1: 5 units occupied; Day 2: 10 units occupied; Day 3: 7 units occupied. Continue this method through the end of reporting period). The units/days occupied is the total number of units occupied each day.
- D. PERCENTAGE OF OCCUPANCY: Divide (C) by (B) to get the percentage of occupancy. (Ex: 700-unit days occupied ÷ by 820-unit days available = 85%).

The minimum records which are necessary for you to keep for three full calendar years include: 1) a cash receipts ledger; 2) a detailed record of room rents or other summary acceptable to the Tax Collector, or the operator's monthly/quarterly revenues showing room registrations (including the name and address of each registered transient); 3) documentation of adjustments for prior periods; 4) copies of Non-Transient Certificates and exemption certificates for foreign officials; and 5) pre-numbered receipts or other source documents showing the amount of payment for room rent, with the room rate separate from the amount of tax paid. These records must be available during reasonable business hours for inspection or audit by the Tax Collector or designated representative.



**SIERRA COUNTY  
TREASURER – TAX COLLECTOR**

100 COURTHOUSE SQUARE • PO BOX 376 • DOWNIEVILLE, CA 95936  
TEL: (530) 289-3286 WEB: sierracounty.ca.gov

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**CLAIM OF EXEMPTION FROM TRANSIENT OCCUPANCY TAX**

I, \_\_\_\_\_, certify under penalty of perjury  
the following is true and correct:

My Sierra County property known as assessor's parcel number \_\_\_\_\_  
is not rented during any part of the year on a transient basis (30 days or less) for  
lodging of any type including but not limited to, cabins, camping, RV spaces,  
motel units, and rooms. I have been notified of the general provisions of the  
Transient Occupancy Tax Ordinance and will contact the Tax Collector if I  
become subject to its provisions in the future.

Name of Business: \_\_\_\_\_

Business Address: \_\_\_\_\_

Last Day of Rentals: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



# SIERRA COUNTY TREASURER – TAX COLLECTOR

100 COURTHOUSE SQUARE • PO BOX 376 • DOWNIEVILLE, CA 95936

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## TRANSIENT OCCUPANCY TAX NON-TRANSIENT CERTIFICATE

The Sierra County Code §5.20.010 (k) regarding Transient Occupancy Tax states:

“...Any person actually occupying a lodging shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant, providing for a longer period of occupancy.”

**Note: If the occupant does not stay thirty (30) days, this document is invalid and transient occupancy tax must be collected.**

**THIS IS TO CERTIFY THAT IT IS MY INTENT TO OCCUPAY A UNIT IN THIS  
LODGING FOR A PERIOD TO EXCEED THIRTY (30) DAYS.**

Occupants Name: \_\_\_\_\_

Occupants Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Unit No.: \_\_\_\_\_ Rate: \_\_\_\_\_ per \_\_\_\_\_

Date Checked In: \_\_\_\_\_ Anticipated Check Out Date: \_\_\_\_\_

\*\*\*This form must be retained in business files for three (3) calendar years from the occupants departure date. The owner will be responsible for the tax and accrued penalties and interest if this form is not completed and retained as required.\*\*\*



# SIERRA COUNTY TREASURER – TAX COLLECTOR

100 COURTHOUSE SQUARE • PO BOX 376 • DOWNIEVILLE, CA 95936

TEL: (530) 289-3286 • WEB: sierracounty.ca.gov

## TRANSIENT OCCUANCY TAX

### FOREIGN OFFICIAL EXEMPTION CERTIFICATE

Section 5.20.040 of the Sierra County Code states that no tax shall be imposed upon the following transients:

Any officer or employee of a foreign government who is exempt by reason or express provision of federal law or international treaty.

This is to certify that:

1. I am traveling as a foreign officer or employee on official business; and
2. I am in possession of tax-exempt credentials; and
3. I am entitled to exemption from Transient Occupancy Tax.

#### TO BE COMPLETED BY OCCUPANT:

Name: \_\_\_\_\_

Agency Name: \_\_\_\_\_

I.D No.: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

I certify under penalty of perjury that the foregoing is true and correct.

Signature	Title	Date
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#### TO BE COMPLETED BY LODGING

Operator Name: \_\_\_\_\_ Room Rate: \_\_\_\_\_

Date In: \_\_\_\_\_ Expected Departure Date: \_\_\_\_\_



# SIERRA COUNTY TREASURER – TAX COLLECTOR

100 COURTHOUSE SQUARE • PO BOX 376 • DOWNIEVILLE, CA 95936  
TEL: (530) 289-3286 WEB: sierracounty.ca.gov

## NOTICE TO BUSINESS OWNER

The Transient Occupancy Tax information submitted to the Treasurer-Tax Collector is confidential and may only be used for governmental purposes. When disclosure of report information is desired by the business operator, a waiver is necessary to protect the confidentiality of these records. The person who signs the Transient Occupancy Tax reports should sign the waiver. Please contact Van Maddox, Treasurer-Tax Collector if you have any questions.

## WAIVER OF RELEASE OF INFORMATION

I authorize the Sierra County Treasurer-Tax Collector to release records and information pertaining to the Transient Occupancy Tax submitted in connection with the operation of lodging facilities known as: \_\_\_\_\_.

(Business Name)

This information may be released to: \_\_\_\_\_

For the following periods: \_\_\_\_\_

I also represent to the Treasurer – Tax Collector that I have the authority to sign this waiver on behalf of the business entity identified above.

\_\_\_\_\_  
Business Owner / Operator Signature

\_\_\_\_\_  
Print Business Owner / Operator

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

**HANDBOOK SUGGESTIONS  
AND  
INTERPRETATION REQUESTS**

## TOT HANDBOOK SUGGESTIONS AND INTERPRETATION REQUESTS

We strive to improve the usefulness of this TOT Handbook to the innkeepers. Please send us your suggestions and constructive criticism. If you have questions concerning the interpretation of any issue or policy, please list your questions on this form and we will respond to them. If you would prefer, you may call us with your input or questions.

### **Topic/Issue**

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### **Suggestions/Criticism**

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Submitted By:

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Email Address or Phone No.: \_\_\_\_\_

Thank you for your time and input. Please send completed form to:

Sierra County Treasurer – Tax Collector P.O Box 376 Downieville, CA 95936 (530) 289-3286 Email: collector@sierracounty.ca.gov
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