

CHAPTER 603 CONTENTS

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TRANSIENT ROOM TAX

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**CHAPTER 603**  
**TRANSIENT ROOM TAX**

**603.005 Definitions.** Except where the context otherwise requires, the definitions given in this section govern the construction of this Chapter.

(1) "Accrual Accounting" means the operator enters the rent due from a transient on his records when the rent is earned whether or not it is paid.

(2) "Board" means the Klamath County Board of County Commissioners.

(3) "Cash Accounting" means the operator does not enter the rent due from a transient on his records until rent is paid.

(4) "County" means Klamath County.

(5) "Hotel" means any structure or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home, condominium, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied.

(6) "Occupancy" means the use or possession or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

(7) "Operator" means the person who is proprietor of the hotel in any capacity. Where the operator performs his functions through a managing agent or any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Ordinance by either the principal or the managing agent shall be considered to be compliance by both.

(8) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(9) "Rent" means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel valued in money, goods, labor, credits, property, or other consideration valued in money, without any deduction; but does not include the sale of any goods, services and commodities other than the furnishing of room accommodations and parking space in mobile home parks or trailer parks.

(10) "Rent Package Plan" means the consideration charged for both food and rent where a single rate is made for the total of

both. The amount applicable to rent for determination of transient room tax under this Ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

(11) "Tax Administrator" means the Klamath County Tax Collector.

(12) "Tax" means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

(13) "Transient" mean any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

**603.100 Tax Imposed.** For the privilege of occupancy in any hotel, on and after the effective date of this Chapter, each transient shall pay a tax in the amount of eight percent (8%) 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. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment.

**603.110 Limitation of Tax Imposed.** The tax imposed by this Chapter shall apply to all hotels located within Klamath County both inside and outside of all incorporated cities within said County.

**603.200 Collection of Tax by Operator; Rules for Collection.**

(1) Every operator renting rooms in this County, the occupancy of which is not exempted under the terms of this Chapter, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owed by the operator to the County.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid; and the operator shall not be liable for the tax until credits are paid or deferred payments are made.

**603.210 Operator's Duties.** Each operator shall collect the tax imposed by this Chapter at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records and any receipt

rendered by the operator. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator or that it will not be added to the rent or that when added, any part will be refunded, except in the manner provided by this Chapter.

**603.220 Exemptions.** No tax imposed under this Chapter shall be imposed upon:

(1) Any occupant for more than thirty (30) successive calendar days; (a person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient);

(2) Any occupant whose rent is of a value less than \$4.00 per day;

(3) Any person who rents a private home, vacation cabin, or like facility from any owner who personally rents such facilities incidentally to his own use thereof;

(4) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people.

(5) The United States Government when a federal employee is on federal government business and the lodging for the employee is directly paid for by the government or employee with a government issued check, credit card, purchase order or other form of procurement document.

(6) Any Federally Chartered organization when an organization employee is on organization business and the lodging for the employee is directly paid for by the organization or employee with an organization-issued check, credit card, purchase order or other form of procurement document.

**603.230 Registration of Operator: Form and Contents: Execution: Certification of Authority.**

(1) Every person engaging or about to engage in business as an operator of a hotel in this County shall register with the Tax Administrator on a form provided by him. Operators engaged in business at the time this Chapter is adopted must register not later than thirty (30) calendar days after passage of this Ordinance. Operators starting business after this Ordinance is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the Tax Administrator may require. The registration shall be signed by the operator. The Tax Administrator shall within ten (10) days after registration issue without charge from the occupant a Certificate of Authority to the registrant to collect the tax from the occupant of the hotel together with a duplicate thereof for each additional place of business for each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Tax Administrator upon the

cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(2) Said certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face thereof has fulfilled the requirements of the Transient Room Tax Ordinance of the County of Klamath by registration with the Tax Administrator for the purpose of collecting from transients the room tax imposed by said County and remitting said tax to the Tax Administrator".

#### **603.300 Due Date, Returns and Payments.**

(1) The tax imposed by this Chapter shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Tax Administrator on a monthly basis on the fifteenth (15th) day of the month for the preceding month and are delinquent on the last day of the month in which they are due.

(2) On or before the fifteenth (15th) day of the month following each month of collection a return for the preceding month's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The Tax Administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period, and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(4) The person required to file the return shall deliver the return together with the remittance of the amount of the tax due to the Tax Administrator at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the Tax Administrator may extend but not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by the Board. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this Chapter.

(6) If the operator has complied with the terms of this Chapter and particularly the provisions of this section relating to prompt payment of taxes due and payable to the Tax

Administrator, he shall be permitted to deduct as a personal collection expense 7% of the amount of the taxes collected as shown by the return mentioned in paragraph 3 of this section.

**603.400 Penalties and Interest.**

(1) Original Delinquency. Any operator who has been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this Chapter prior to delinquency shall pay a penalty of ten percent (10%) of the amount of tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs 1 and 2 of this section.

(4) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof without proration for portions of a month on the amount of the tax due, exclusive of penalties, for the date on which the remittance first became delinquent until paid.

(5) Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this Chapter shall be merged with and become a part of the tax herein required to be paid.

(6) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time stated shall pay the penalties herein stated provided; however, the operator may petition the Board for waiver and refund of the penalty or any portion thereof, and the Board may if a good and sufficient reason is shown waive and direct a refund of the penalty or any portion thereof.

**603.500 Deficiency Determinations, Fraud, Evasion, Operator Delay.**

(1) Deficiency Determination. If the Tax Administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession. One or more deficiency determinations may be made of the amount due for one or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in KCC 603.400.

(a) In making a determination, the Tax Administrator may offset overpayments, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods or against penalties and interest on the underpayment. The interest on underpayment shall be computed in the manner set forth in KCC 603.400.

(b) The Tax Administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by certified mail. In the case of service by mail of any notice required by this Chapter, the service is complete upon receipt by the operator or his agent or employee, or if refused, the date of its refusal as shown by the United States Postal Department return receipt.

(c) Except in the case of fraud, intent to evade this Chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Tax Administrator has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this Chapter any report and remittance of said tax or any portion thereof required by this Chapter or makes a fraudulent return or otherwise willfully attempts to evade this Chapter, the Tax Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this Chapter from any operator who has failed or refused to collect the same and to report and remit said tax, he/she 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 in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect said tax or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the Tax Administrator has given notice thereof; provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Operator Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the County will be jeopardized by delay or

if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the Tax Administrator after service of notice thereof; provided, however, the operator may petition after payment has been made for redemption and refund of such determination if the petition is filed within ten (10) days from the date of service of notice by the Tax Administrator.

#### **603.510 Redeterminations.**

(1) Any person against whom a determination is made under KCC 603.500 or any person directly interested may petition for a redetermination and redemption and refund within the time required in KCC 603.500. If a petition for redetermination and refund is not filed within the time required in KCC 603.500, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination; and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten days notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

(3) The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing; and if an increase is determined, such increase shall be payable immediately after the hearing.

(4) The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof unless appeal of such order or a decision is filed with the Board within ten (10) days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

#### **603.520 Security for Collection of Tax.**

(1) The Tax Administrator after delinquency and when he deems it necessary to insure compliance with this Chapter may require any operator subject thereto to deposit with him such security in the form of cash, bond, or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such manner as the Tax Administrator deems proper, or Five Thousand Dollars (\$5,000), whichever amount is the lesser. The amount of the security may be



increased or decreased by the Tax Administrator subject to the limitations herein provided.

(2) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Tax Administrator may bring an action in the courts of this State, or any State, or of the United States in the name of the County to collect the amount delinquent together with penalties and interest.

#### **603.530 Lien.**

(1) The tax imposed by this Chapter together with the interest and penalties herein provided and the filing fees paid to the Clerk of Klamath County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this Chapter shall be and until paid remain a lien from the date of its recording with the Clerk of Klamath County, Oregon, and superior to all subsequent recorded liens on all tangible personal property used in the hotel of an operator and may be foreclosed on and sold as may be necessary to discharge said lien if the lien has been recorded. Notice of lien may be issued by the Tax Administrator or his deputy whenever the operator is in default in the payment of said tax, interest, and penalty and shall be recorded and a copy sent by certified mail to the delinquent operator.

(2) The personal property subject to such lien seized by any deputy or employee of the Tax Administrator may be sold by the department seizing the same at public auction after twenty (20) days notice given by two publications of a notice to such effect in a newspaper of general circulation within the County. The notices required hereunder shall be published not less than seven (7) days apart.

(3) Any lien for taxes as shown on the records of the proper County official shall upon the payment of all taxes, penalties, and interest thereon be released by the Tax Administrator when the full amount determined to be due has been paid to the County, and the operator or person making such payment shall receive a receipt therefore stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

#### **603.550 Refunds.**

(1) Operators' Refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this Chapter, it may be refunded provided a verified claim in writing therefor stating the specific reason upon which the claim is founded is filed with the Tax Administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid, and the balances may

be refunded to each operator, his administrator, executors or assignees.

(2) Transient Refunds. Whenever the tax required by this Chapter has been collected by the operator and deposited by the operator with the Tax Administrator and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the transient provided a verified claim in writing therefore, stating the specific reason on which the claim is founded is filed with the Tax Administrator within three years from the date of payment.

### **603.600 Administration.**

(1) Transient Room Tax Fund. The Tax Administrator shall place all monies received pursuant to this Chapter in the Transient Room Tax Fund.

(2) Records Required from Operators, etc., Form. Every operator shall keep guest records of room sales and accounting books and records of room sales. All records shall be retained by the operator for a period of three years and six months after they come into being.

(3) Examination of Records; Investigations. For the purpose of enforcing KCC 603.500, if the Tax Administrator has reason to believe that the returns are incorrect or that fraud, refusal to remit, evasion or operator delay has occurred as set forth in KCC 603.500, then the Tax Administrator or any person authorized in writing by him/her may examine during normal business hours the books, papers, and accounting records relating to room sales of any operator after notification to the operator liable for the tax and may investigate the business of the operator in order to verify the accuracy of any return made; or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(4) Confidential Character of Information Obtained - Disclosure Unlawful. It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Chapter to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Transient Occupancy Registration Certificate or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount of source of income, profits, losses, expenditures, or any particular thereof set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person. Provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure of the examination of records and equipment by another County official, employee, or agent for collection to taxes for the sole purpose of administering or enforcing any provisions of this Chapter or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors if directly interested of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the Klamath County Counsel approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the County.

**603.610 Tax Revenue Sharing.**

(1) Seventy-five percent (75%) of the total net transient room tax after collection and other administrative costs have been deducted, which administrative costs shall not exceed 1% of the gross Transient Room Tax Collection, shall be distributed by the Tax Administrator quarterly as follows:

(a) One-sixth (1/6) to Klamath County for use in the promotion of tourism and conventions in Klamath County.

(b) Fifty percent (50%) of the balance to participating incorporated cities located in whole or in part within Klamath County. This percentage shall be adjusted as set out in paragraph (e) herein.

(i) The administration and enforcement of such tax shall remain with the Tax Administrator.

(c) The amount to be distributed to a city shall be as follows:

(i) Each fifty percent (50%) of net collections of the Transient Room Tax shall be allocated to the cities by the Tax Administrator under a formula where the amount payable to each city shall be determined by the ratio the total transient room tax collections of each city bears to the total tax collections of all such cities times the distributive amount allocated to all such cities.

$$\text{FORMULA: CITY'S SHARE} = \frac{\text{TOTAL TAX COLLECTION OF INDIVIDUAL CITY}}{\text{TOTAL TAX COLLECTION OF ALL INCORPORATED CITIES IN KLAMATH COUNTY}} \times \frac{\text{TOTAL NET COLLECTION OF COUNTY}}{\text{TOTAL NET COLLECTION OF COUNTY}} \times 50\%$$

(d) The balance remaining of the seventy-five percent of the Transient Room Tax deducting the sums allocated as provided in paragraphs 1 (a) and (b) shall be retained by Klamath County for purposes of construction, operation, and maintenance of the Klamath County Fairgrounds.

(e) At the start of each fiscal year, the foregoing distribution formula shall be readjusted. Said readjustment shall be made to reflect the proportion which the total collection of the tax imposed from the operators within the corporate limits of the respective cities bears to the total revenue collected from all sources within the County pursuant to this Chapter. This percentage figure shall be substituted for the figure of 50 percent shown in the formula set out in Subsection (1)(c) of this Section and shall be used in computing the distribution share of the various governmental entities. The readjustment shall be based upon the four quarters of receipts prior to the readjustment which shall be calculated no later than March 31 of each year. The Tax Administrator shall notify each participating city and the County of the adjustment at that time.

(f) Any incorporated city desiring to obtain the revenue to which they may be entitled under this Chapter shall enter into an agreement with the Board of County Commissioners of Klamath County, agreeing that this Chapter shall be effective within the city limits of said city and shall be in lieu of enacting a separate transient room tax. Such agreement shall also provide for the distribution of the hotel/motel receipts as specified in this section.

(2) Twenty five percent (25%) of the net transient room tax shall be distributed by the Tax Administrator as follows:

(a) Thirty percent (30%) to the Klamath County Museums;

(b) Thirty-five percent (35%) to Klamath County to fund tourism and convention promotion or tourism-related facilities in Klamath County; and

(c) Thirty-five percent (35%) to Klamath County for deposit into a special revenue fund within Klamath County. The fund will be used for the Tourism Promotion Grants Program, which will establish a competitive grants program for the promotion of tourism and conventions in Klamath County. The grants will be solicited competitively and the Board of County Commissioners will decide by application the disbursement of the grant funds.

**603.700 Appeals to the Board.** Any person aggrieved by any provisions of the Tax Administrator may appeal to the Board by filing a notice of appeal with the Tax Administrator within ten (10) days of the Administrator's decision. The Tax Administrator shall transmit said notice of appeal, together with the file of said appealed matter to the Board who shall fix a time and place for hearing such appeal. The Board shall give the appellant not less than ten (10) days written notice of the time and place of hearing of said appealed matter.

**603.800 Violations.** It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return.

No person required to make, render, sign, or verify any report shall make any false or fraudulent report with intent to defeat or evade the determination of any amount due required by this Chapter. Any person willfully violating any of the provisions of this Chapter shall be subject to a fine of not more than three hundred sixty dollars (\$360.00).