

ARTICLE 1.7
TRANSIENT OCCUPANCY TAX

(Added by Ord. No. 127,757, Eff. 7/31/64, Operative 8/1/64.)

SEC. 21.7.1. TITLE.

This article shall be known as the Uniform Transient Occupancy Tax Ordinance of The City of Los Angeles.

SEC. 21.7.2. DEFINITIONS.

Except where the context otherwise requires, the definitions given in this section govern the construction of this article.

(a) **Person.** “**Person**” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(b) **Hotel.** “**Hotel**” means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio, hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobile homes, are occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes.

(c) **Occupancy.** “**Occupancy**” means the use or possession, or the right to the use or possession of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes. The use or possession or right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered “occupancy” within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.

(d) **Transient.** (Amended by Ord. No. 164,961, Eff. 7/24/89, Oper. 8/1/89.) “**Transient**” means:

1. Any person, other than an individual, who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for any period of time, or

2. Any individual who personally exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement, for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy.

Nothing in this definition or in this article shall be construed as prohibiting the operator of a hotel from refunding or making an allowance of credit to a person who has paid tax as required by this article where it is established that the person was not a “transient” as defined in this section or was exempt from the tax for any other reason, or had for any reason overpaid the tax.

(e) **Rent.** “Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Nothing in this definition shall be construed to mean that rent is charged directly or indirectly for the occupancy of space in a hotel when that space is provided to the occupant as a compliment from the operator and where no consideration is charged to or received from any other person.

(f) **Operator.** (Amended by Ord. No. 176,005, Eff. 7/7/04.) “Operator” means the person who is either the proprietor of the hotel or any other person who has the right to rent rooms within the hotel, whether in the capacity of owner, lessee, mortgagee in possession, licensee or any other capacity. The owner or proprietor who is primarily responsible for operation of the hotel shall be deemed to be the principal operator. If the principal operator performs or assigns its functions, in whole or in part, through a managing agent, a booking agent, a room seller or room reseller, or any other agent or contractee, including but not limited to on-line room sellers, on-line room resellers, and on-line travel agents, of any type or character other than an employee, those persons shall be deemed to be secondary operators.

A secondary operator shall be deemed an operator for purposes of this article and shall have the same duties and liabilities as the principal operator, including but not limited to the collection and remittance of the full amount of the tax owed under the provisions of this article to the City. A secondary operator may satisfy its obligations under the provisions of this article by submitting the full amount of tax due under this article, with credit for any taxes remitted to any other operator, either directly to the Director of Finance or through the principal operator. The principal operator may satisfy any potential liability it may have for taxes owed by a secondary operator by entering into a legally binding agreement with that secondary operator to remit the portion of the tax owed by the secondary operator directly to the City. Upon request, the principal operator shall provide the Director of Finance with copies of any such agreements.

Compliance with the provisions of this article by either the principal operator or the secondary operator shall be deemed compliance by both and no provision of this article shall be deemed to require the payment and/or remittance of any amount other than the full amount of the tax owed by the transient.

SEC. 21.7.3. TAX IMPOSED.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of four percent (4%) of the rent charged by the operator on or after August 1, 1964, to and including October 31, 1967; and at the rate of five percent (5%) from that date to and including February 28, 1971; and at the rate of six percent (6%) from that date to and including June 30, 1978; and at the rate of seven and one-half percent (7.5%) from that date to and including June 30, 1983; and at the rate of ten percent (10%) from that date to and including December 31, 1985; and at the rate of eleven percent (11%) from that date to and including December 31, 1987; and at the rate of twelve percent (12%) from that date to and including August 31, 1990; and at the rate of twelve and one-half percent (12.5%) from that date to and including July 31, 1993; and at the rate of fourteen percent (14%) thereafter. **(Amended by Ord. No. 168,850, Eff. 8/1/93.)** Said tax constitutes a debt owed by the transient to the City which is extinguished by the payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, or if an amount paid is less than the full amount of rent and tax accrued at the time of payment, a proportionate share of the tax shall be deemed to have been paid with each such payment or installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax is not paid to the operator of the hotel, the Director of Finance may require that such tax shall be paid directly to the City.

SEC. 21.7.4. EXEMPTIONS.

(Amended by Ord. No. 159,773, Eff. 5/25/85.)

No tax shall be imposed upon:

(a) Any person as to whom, or any occupancy as to which, it is beyond the power of the City to impose the tax herein provided;

(b) Any Federal or State of California officer or employee, including employees of federal credit unions, who provides proof that he or she is on official Federal or State business.

(Amended by Ord. No. 172,773, Eff. 9/25/99.)

(c) Any officer or employee of a foreign government who is exempt by express provision of federal law or international treaty;

(d) Any person to whom rent is charged at the rate of \$2.00 per day or less;

(e) Any person as to whom, or any occupancy as to which, rent is paid from funds administered by the Emergency Food and Shelter National Board Program.

No exemption shall be granted under Subsections (a), (b) or (c) except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the Director of Finance.

It shall be the duty of an operator to keep and maintain for a period of four (4) years written documentation in support of each exemption granted under Subsection (e).

SEC. 21.7.5. OPERATOR'S DUTIES.

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

SEC. 21.7.6. REGISTRATION.

(a) Within 30 days after the operative date of this article, or within 30 days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the Director of Finance and obtain from him a “**Transient Occupancy Registration Certificate**” to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

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

Statements and payments are due immediately upon cessation of business for any reason, at which time the operator shall furnish the Director of Finance with the name and address of the successor operator.

Notwithstanding the foregoing, the amount of taxes required to be remitted by an operator to the City pursuant to this Section [21.7.7](#) shall be automatically offset by the City in an amount equal to special taxes levied, collected and satisfied, by a City Community Tax District, formed pursuant to [Division 6, Chapter 10](#) of the Los Angeles Administrative Code, against the operator's property during the preceding calendar month. The sum of the operator's monthly transient occupancy tax remittance to the City and the operator's monthly special tax payment shall equal the amount of transient occupancy tax required to be collected pursuant to this Article. The City may request from the applicable operator or the legislative body of the Community Taxing District documentation or other information necessary to substantiate the special tax payment. **(Added by Ord. No. 177,052, Eff. 11/20/05.)**

The automatic tax offset of the transient occupancy taxes due pursuant to this Article shall not exceed the rate of transient occupancy tax levied by the City, and no tax offset shall be provided for the amount of special taxes paid by an operator in excess of the rate of transient occupancy tax levied by the City. **(Added by Ord. No. 177,052, Eff. 11/20/05.)**

SEC. 21.7.8. PENALTIES AND INTEREST.

(a) Taxes collected by an operator which are not remitted to the Director of Finance on or before the due dates fixed in Sec. [21.7.7](#), or fixed by the Director of Finance as provided therein, are delinquent.

(b) Interest and penalties for delinquency in remittance of any tax collected or required to be collected, or any deficiency determination, shall attach and be paid by the operator at the rates and in the same manner as is provided in Section [21.05](#) of this Chapter for delinquency in the payment of Business Tax, except that a month shall commence on the 26th day of each calendar month and terminate on the 25th day of the succeeding calendar month. **(Amended by Ord. No. 176,471, Eff. 3/22/05, Oper. 1/1/05.)**

(c) The Director of Finance shall have power to impose additional penalties upon an operator for fraud and negligence in reporting and remitting in the same manner and at the same rates as are provided in Sec. [21.05](#) of this chapter for such penalties upon persons required to pay Business Tax.

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted. **(Amended by Ord. No. 174,085, Eff. 8/19/01.)**

SEC. 21.7.9. ADDITIONAL POWERS AND DUTIES OF DIRECTOR OF FINANCE, ETC.

(a) The Director of Finance shall have the power and duty, and is hereby directed to enforce each and all of the provisions of this article.

(b) In administering and enforcing the provisions of this article, the Director of Finance shall have the same powers and duties with respect to collecting the tax provided herein as he has under Sec. [21.15](#) of this chapter with respect to collecting the Business Tax.

(c) The provisions of Sections [21.17](#), [21.20](#) and [21.21](#) of this chapter shall apply to the administration and collection of the tax imposed under the provisions of this article in the same manner as they apply to the administration and collection of the Business Tax.

SEC. 21.7.10. ASSESSMENT – ADMINISTRATIVE REMEDY.

The Director of Finance may make an assessment for taxes not remitted by an operator for any reason specified in Sec. [21.16](#) of this chapter for making an assessment for unpaid Business Tax. The manner of making and providing notice of such assessment; the right to a hearing and the conduct of such hearing; the preparation and service of findings; filing exceptions; and passing upon exceptions shall be the same as provided in Sec. [21.16](#) of this chapter.

SEC. 21.7.11. RECORDS.

(Amended by Ord. No. 173, 587, Eff. 12/7/00.)

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

SEC. 21.7.12. REFUNDS.

(a) Whenever the amount of any tax has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this article it may be refunded as provided in this section. Except as otherwise provided in this section, refunds of overpaid taxes shall be made in the same manner as is provided in Sec. [21.07](#) of this chapter for refunds of overpayments in Business Taxes.

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

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(c) A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing a claim in the manner provided in Sec. [21.07](#) of this chapter, but only when the tax was paid by the transient directly to the Director of Finance, or when the transient having paid the tax to the operator, establishes to the satisfaction of the Director of Finance that the transient has been unable to obtain a refund from the operator who collected the tax.

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

SEC. 21.7.13. ACTIONS TO COLLECT.

Any tax required to be paid by any transient under the provisions of this article shall be deemed a debt owed by the transient to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this article shall be liable to an action brought in the name of the City for the recovery of such amount. Any operator who undertakes legal action to recover unpaid rent due from a transient may include the amount of tax due from the transient in the amount sought to be recovered.