BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of an Order Repealing Ordinance No. 20-02 Regarding County Transient Lodging (TLT) Tax	**)** **)** **)**	**ORDER NO.** 23303

WHEREAS, in November 2020, the Curry County Board of Commissioners enacted Ordinance No. 20-02, modifying the distribution and administration of Transient Lodging Tax ("TLT") funds; and

WHEREAS, the Board now finds that the provisions of Ordinance No. 20-02 are contrary to the terms voted on by the electors of Curry County; and

WHEREAS, if the Ordinance is repealed, the regulations and Code enacted by Ordinances No. 19-01, 19-02, and amended by 19-13 will remain effective.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Effective immediately, Ordinance No. 20-02 is repealed.
2. Curry County Code, Article Eight, Divisions One and Two are amended to read in accordance with the provisions of Ordinance Nos. 19-01, 19-02 and 19-13; and the amended Code Divisions are attached hereto and incorporated herein by reference.

DATED this 19th day of July, 2023.

BOARD OF CURRY COUNTY COMMISSIONERS

John Herzog, Chair

Brad Alcorn, Vice Chair

Jay Trost, Commissioner

Approved as to Form:

Michael E. Fitzgerald, OSB #950738
Curry County Legal Counsel

CJ2023-228
Curry County Clerk, Shelley Denney
Filed Date 10 / 2 / 23
Time 4:05pm - 21 pages
Deputy
S. Lindsey Harris

ARTICLE EIGHT

DIVISION ONE IMPOSING TRANSIENT LODGING TAX

SECTION 8.01.010 STATEMENT OF PURPOSE AND AUTHORITY

This Division is enacted pursuant to Curry County Transient Lodging Tax Authorizing Ordinance; Ordinance No. 19-01. The purpose of this Division is to codify the imposition of the tax enacted by Ordinance pursuant to Oregon Revised Statutes, Chapter 320.

SECTION 8.01.020 DEFINITIONS

Except where the context otherwise requires, the following definitions from ORS 320.300 given in this section govern the construction of this ordinance.

1. "Board" means the Board of County Commissioners of Curry County.

2. "Collection reimbursement charge" means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.

3. "Conference center" means a facility that"

   a. Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and

   b. Meets the current membership criteria of the International Association of Conference Centers.

4. "Convention center" means a new or improved facility that:

   a. Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including without limitation banquet facilities, loading areas and lobby and registration areas;

   b. Has a total meeting room and ballroom space between one-third and one-half of the total size of the center's exhibition space;

   c. Generates a majority of its business income from tourists;

d. Has a room-block relationship with the local lodging industry; and

e. Is owned by a unit of local government, a governmental agency or non profit organization.

5. "County transient lodging tax" means the tax imposed under this Division.

6. "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, or other organization or entity.

7. "Tax Administrator" means the Board of County Commissioners of Curry County, or the person it so designates.

8. "Tourism" means economic activity resulting from tourists.

9. "Tourism promotion" means any of the following activities:

   a. Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;

   b. Conducting strategic planning and research necessary to stimulate future tourism development;

   c. Operating tourism promotion agencies; and

   d. Marketing special events and festivals designed to attract tourists.

10. "Tourism-related facility" means:

   a. A conference center, convention center or visitor information center; and

   b. Other improved real property that has a useful life of ten (10) or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

11. "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:

   a. Requires the person to travel more than fifty (50) miles from the community of residence; or

   b. Includes an overnight stay.

12. "Transient Lodging" or "Transient Lodging Facility" means:

a. Hotel, motel and Inn dwelling units that are used for temporary overnight human occupancy;

b. Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or

c. Houses, cabins, condominiums, apartment units, or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.

13. "Transient Lodging Intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.

14. "Transient Lodging Provider" means a person that furnishes transient lodging.

15. "Transient Lodging Tax Collector" means a transient lodging provider or a transient lodging intermediary.

16. "Visitor Information Center" means a building or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.

SECTION 8.01.030 IMPOSITION OF TAX

8.01.031 Imposition and Rate of Tax

A tax of seven percent (7%) is imposed on any rent or consideration rendered for the sale, service or furnishing of transient lodging.

8.01.032 Computation of Tax

The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging. The total retail price paid, including all charges other than taxes, paid by a person for occupancy of the transient lodging that is part of a travel package, may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

The tax shall be collected by the transient lodging tax collector that receives the rent or consideration rendered for occupancy of the transient lodging.

8.01.033 Transient Lodging Tax Collector Reimbursement

The transient lodging tax collector may withhold a collection reimbursement charge of five percent (5%) of the amount collected pursuant to this section.

8.01.034 Applicability

The tax imposed by this Division shall apply to all transient lodging in the unincorporated areas of Curry County; it shall not apply to transient lodging within incorporated cities.

SECTION 8.01.040 EXEMPTIONS

The following are exempt from the County TLT tax:

1. A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certifies by the Department of Human Services or the Oregon Health Authority.

2. A dwelling unit in a facility providing treatment for drug and alcohol abuse or providing mental health treatment.

3. A dwelling unit that is used by members of the general public for a temporary human occupancy for fewer than thirty (30) days per year.

4. A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter.

5. A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility.

6. A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of thirty (30) days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

    a. All dwelling units occupied are within the same facility; and

    b. The person paying consideration for the transient lodging is the same person throughout the consecutive period.

SECTION 8.01.050 USE OF REVENUE

Per ORS 320.350,

1. At least seventy percent (70%) of net revenue from a new or increased local transient lodging tax shall be used to:

    a. Fund tourism promotion or tourism-related facilities; and

    b. Finance or refinance the debt of tourism-related facilities and pay reasonably administrative costs incurred in financing or refinancing that debt, provided that:

i. The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

ii. Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

2. No more than thirty percent (30%) of net revenue from a new or increased local transient lodging tax may be used to fund other County services.

SECTION 8.01.060 IMPLEMENTING ORDINANCE AUTHORIZATION

The Board may, be separate ordinance, promulgate additional definitions, rules and regulations necessary or convenient for the administration, collection, refund, and enforcement of this Division.

ARTICLE EIGHT

DIVISION TWO IMPLEMENTATION OF TRANSIENT LODGING TAX

SECTION 8.02.010 STATEMENT OF PURPOSE AND AUTHORITY

This Division is enacted pursuant to Curry County Transient Lodging Tax ("TLT") Implementing Ordinance; Ordinance No. 19-02 and subsequently amended by Ordinance No. 19-13. The purpose of this Division is to codify the implementation of TLT tax provisions enacted by Ordinance pursuant to Oregon Revised Statutes, Chapter 320.

SECTION 8.02.020 DEFINITIONS

1. "Board" means the Board of County Commissioners of Curry County.
2. "County" means Curry County, Oregon, a political subdivision of the State of Oregon.
3. "Occupancy" means the right to the use or possession of any space in transient lodging for dwelling, lodging or sleeping purposes for less than thirty (30) days.
4. "Occupant" means any individual who exercises occupancy or is entitled to occupancy in transient lodging for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.
5. "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, or other organization or entity.
6. "Rent" means the consideration paid or payable by an occupant for the occupancy of space in transient lodging valued in money, goods, labor, credits, property or other consideration. If a separate fee is charged for services, goods, or commodities and the fee is optional, that fee is not included in rent.
7. "Short-Term Rental" means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, or other residential dwelling unit for transient lodging occupancy. Generally, a short-term rental is zoned residential or has a building occupancy that only allows for residential use.
8. "Short-Term Rental Hosting Platform" means a business or other person that facilitates the retail sale of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

9. "Tax" means either the tax payable by the transient, or the aggregate amount of taxes due from a transient lodging tax collector during the period for which he is required to report his collections.

10. "Tax Administrator" means the Curry County Board of Commissioners, or its designee.

11. "TLT" means Transient Lodging Tax.

12. "Transient" means any individual who exercises occupancy or is entitled to occupancy in a transient lodging facility for a period of less than thirty (30) consecutive days, counting portions of calendar days as full days. The day the transient checks out of the transient lodging shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the transient lodging tax collector. Any such person so occupying space in a transient lodging facility shall be deemed to be a transient until the period of twenty-nine (29) days has expired unless there is an agreement in writing between the transient lodging tax collector and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than twenty-nine (29) consecutive days. In determining whether a person is a transient, uninterrupted periods of occupancy extending both prior and subsequent to the effective date of this Division may be considered. 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.

13. "Transient Lodging" or "Transient Lodging Facility" means:

    a. Hotel, motel and Inn dwelling units that are used for temporary overnight human occupancy;

    b. Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or

    c. Houses, cabins, condominiums, apartment units, or other dwelling units, or portions of any of these dwelling units that are used for temporary human occupancy.

14. "Transient Lodging Intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.

15. "Transient Lodging Provider" means a person that furnishes transient lodging.

16. "Transient Lodging Tax Collector" means a transient lodging provider or a transient lodging intermediary.

17. "Transient Lodging Tax Review Committee" means a committee composed of an accountant, an attorney, a transient lodging tax collector, and two other persons appointed by the Board; and may be owners or operators of transient lodging.

SECTION 8.02.030 COLLECTION AND PAYMENT OF TAX

Each transient lodging tax collector shall collect the tax imposed by this Division at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the transient lodging tax collector. No transient lodging tax collector of a transient lodging facility shall advertise that the tax or any part of the tax will be assumed or absorbed by the transient lodging tax collector, 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 Division.

8.02.031 Tax Owed

For the privilege of occupancy in any transient lodging after the effective date of this Division, each transient shall pay a tax in the amount required by Curry County Ordinance No. 19-01/Article Eight, Division One of Curry County Code. The tax constitutes a debt owed by the transient to the County, which is extinguished only by payment by the transient lodging tax collector to the County. The transient shall pay the tax to the transient lodging tax collector of the transient lodging facility at the time the rent is paid. The transient lodging tax collector shall enter the tax on his/her records when rent is collected if the transient lodging tax collector keeps his records on the cash accounting basis; and when earned if the transient lodging tax collector keeps his/her 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 transient lodging tax collector with each installment.

8.02.032 Collection of Tax by Transient Lodging Tax Collector

Every transient lodging tax collector shall collect the Tax at the time rent is paid, unless exemption applies. If payment is by credit card, for purposes of this section, payment is made at the time credit card information is provided to the transient lodging tax collector, not when the transient lodging tax collector ultimately receives credit for the transaction. While holding the payment in trust for the County, a transient lodging tax collector may commingle the tax proceeds with the transient lodging tax collector's funds, but the transient lodging tax collector is not the owner of tax proceeds, except that, when a return is filed, the transient lodging tax collector becomes the owner of the administrative fee authorized to be retained. Transient lodging tax collectors may choose to file returns and remit payment based on amounts accrued but not yet collected.

For rent collected on portions of a dollar, fractions of a penny shall not be remitted.

8.02.033 Short-Term Rental Housing Platform Fees

A hosting platform for Short-Term Rentals may collect a fee for booking services in connection with Short-Term Rentals only when those Short-Term Rentals are lawfully registered as operators with the County and possess a certificate of authority at the time the Short-Term Rental is occupied.

8.02.034 Payment of Tax

When a return is required under this Division, the transient lodging tax collector required to make the return shall remit the tax due to the Tax Administrator at the time fixed for filing the return.

8.02.036 Amounts Held in Trust

Every transient lodging tax collector required to collect TLT shall be deemed to hold the amount collected in trust for Curry County and for payment to the Tax Administrator in the manner and at the time provided herein.

SECTION 8.02.040 GENERAL ADMINISTRATION

8.02.041 Liability

Transient Lodging Providers who receive any portion of the rent for transient lodging and transient lodging intermediaries that provide booking services are both transient lodging tax collectors and are jointly and severally liable for the Tax.

The transient lodging tax collector is liable for any Tax that should have been collected from the occupant, except in cases of nonpayment of rent.

8.02.042 Recordkeeping

Every transient lodging tax collector shall keep guest records of transient lodging sales and accounting books and records of transient lodging sales, render statements and comply with rules adopted by the Board with respect to the Tax. The records and statements required by this Division must be sufficient to show whether there is a tax liability imposed hereon. All records shall be retained by the transient lodging tax collector for a period of three years and six months after their creation.

8.02.043 Examination of Records; Investigations

Upon request by the County, transient lodging tax collectors must provide all physical addresses of transient lodging facilities subject to their control within the County and related contact information, including the name and mailing address of the general manager, agent, owner, host or other responsible person for the location.

The Tax Administrator, or any person authorized in writing by the Tax Administrator, may examine during business hours the books, papers, and accounting records relating to transient lodging sales of any transient lodging tax collector, after notification to the transient lodging tax collector liable for the tax, and may investigate the business of the transient lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the transient lodging tax collector, to ascertain and determine the amount required to be paid.

8.02.044 Confidential Character of Information Obtained

It shall be unlawful for the Tax Administrator or any person having an administrative or clerical duty under the provisions of this Division 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 lodging tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement, or to permit any statement or application, or copy thereof, or any book containing an abstract or particulars thereof to be seen or examined by any person; provided, that nothing in this subsection shall be construed to prevent:

1. The disclosure or examination of records and equipment by another County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing and provisions of this Division, or collection of taxes;

2. The disclosure, after the filing of a written request to that effect, to the taxpayer themselves, receivers, trustees, executors, administrators, assigns 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 County Legal Counsel approves each such disclosure and that the Tax Administrator may refuse to make any disclosure referred to under this paragraph when in his opinion the public interest would suffer thereby;

3. The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued;

4. The disclosure of general statistics regarding taxes collected or business done in the County.

5. Disclosure consistent with ORS 192.502(18).

SECTION 8.02.050 EXEMPTIONS

No TLT shall be imposed upon:

The following are exempt from the County TLT tax:

1. A dwelling unit in a hospital, health care facility, long-term care facility or any other residential facility that is licensed, registered or certifies by the Department of Human Services or the Oregon Health Authority.

2. A dwelling unit in a facility providing treatment for drug and alcohol abuse or providing mental health treatment.

3. A dwelling unit that is used by members of the general public for a temporary human occupancy for fewer than thirty (30) days per year.

4. A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter.

5. A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility.

6. A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of thirty (30) days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

   a. All dwelling units occupied are within the same facility; and

   b. The person paying consideration for the transient lodging is the same person throughout the consecutive period.

SECTION 8.02.060 REGISTRATION OF TRANSIENT LODGING PROVIDER

8.02.061 Registration

Every person engaging or about to engage in business as a provider of transient lodging in the County shall register with the Tax Administrator within fifteen (15) 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 be on a form provided by the Tax Administrator and shall set forth the name under which the provider transacts or intends to transact business, the location of the place of business or places of business, and such other information to facilitate collection of the tax as the Tax Administrator may require. The registration shall be signed by the provider. The Tax Administrator shall, within ten (10) days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupancy, together with a duplicate thereof for each additional place of business of 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 names 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. The certificate shall include the following:

a. The name of the provider;

b. The address of the transient lodging facility;

c. The date upon which the certificate was issued; and

d. The certificate number as assigned by the tax administrator.

8.02.062 Form of Registration Certificate

The Registration Certificate shall be in substantially the following form:

> "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Lodging Tax Regulations by registration with the Tax Administrator for the purpose of collection from transients the lodging tax imposed by said County and remitting said tax to

the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging facility 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 the County. This Certificate does not constitute a permit."

SECTION 8.02.070 RETURNS

8.02.071 Returns

Every transient lodging tax collector is responsible for collecting the tax imposed under this Article, and shall file a return with the Tax Administrator, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The Tax Administrator or its designee shall prescribe the form of the return required by this section, and the Board shall adopt rules by ordinance regarding the preparation and filing of the return and the payment of the tax, including rules requiring that returns be made under penalties for false swearing.

The Tax Administrator has authority to classify or district the transient lodging tax collector for determination of applicable tax periods and shall notify each transient lodging tax collector of the due and delinquent dates for the transient lodging tax collector's returns. The initial return under this Article may be for less than the three months preceding the due date; thereafter returns shall be made for the applicable quarterly period.

On or before the last day of the month following each quarter of collection, a return for the preceding quarter'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 transient lodging tax collector liable for payment of tax. A return must be filed with the Tax Administrator even if no taxes have been collected, except as provided by subsection 8.02.072.

8.02.072 Due Date for Return

All amounts of such taxes collected by any transient lodging tax collector are due and payable to the Tax Administrator on a quarterly basis on the last day of the following month for the preceding three months; and are delinquent on the first day following the month in which they are due.

Once the amount held by a transient lodging tax collector, other than one that rents privately owned camping or recreational vehicle spaces, equals or exceeds \$100.00; or by December 31st of each year if the \$100.00 threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period as determined in this section.

A transient lodging tax collector that rents privately owned camping or recreational vehicle spaces shall not be required to file a return or pay the tax collected until the amount of money held equals or exceeds $100.00.

8.02.073 Contents of Return

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, the number of rooms or spaces available during that period, gross receipts of the transient lodging tax collector for such period, and an explanation in detail of any discrepancy between such amounts and the amount of rents exempt, if any.

8.02.074 Delivery of Return

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's 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.

8.02.075 Extensions

For good cause, the Tax Administrator may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted except by the Transient Lodging Tax Review Committee. Any transient lodging tax collector to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount to tax due. If a return is not filed, and the tax and 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 Division.

SECTION 8.02.080 PENALTIES

The Tax Administrator shall enforce the provisions of this Division.

8.02.081 Penalties

1. Original Delinquency: Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by Article Eight, Division One, shall pay the greater of ten percent (10%) of the amount of the tax due or $100.00 in addition to the amount of the tax.

2. Continued Delinquency: Any transient lodging tax collector who has not been granted an extension of time for remittance of tax due, and who failed to pay a delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the mount of the tax due plus 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 Article 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 subsections 8.02.081 and 8.02.082.

8.02.082 Interest

In addition to the penalties imposed, any transient lodging tax collector who fails to remit any tax imposed by this Article shall pay interest at the rate of one percent (1%) per month, or fraction thereof, without proration for portions of a month. Interest shall accrue on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent, and shall continue to accrue until the amount due and interest owing has been paid.

8.02.083 Penalties and Interest

Every penalty imposed and such interest as accrues under the provisions of this Division shall be merged with and become a part of the tax herein required to be paid.

8.02.084 Petition for Waiver

Any transient lodging tax collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties described in this Section; provided, however, that the transient lodging tax collector may petition the Transient Lodging Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodging Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

SECTION 8.02.090 DETERMINATIONS OF DEFICIENCY; EVASION; DELAY

8.02.091 Determination of Deficiency

If the Tax Administrator determines that the returns are incorrect, the amount required may be computed and determined upon the basis of the facts contained in the return or returns or upon the basis of the facts contained in the return or returns or upon the basis of any information in the possession of the Tax Administrator, or that may come into their 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 Section 8.02.080.

8.02.092 Tax Administrator Ability to Offset

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 underpayments. The interest on underpayments shall be computed in the manner set forth in Section 8.02.080.

8.02.093 Delivery of Notice

The Tax Administrator shall give to the transient lodging tax collector or occupant a written notice of the determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the transient lodging tax collector at the address as it appears on the records of the Tax Administrator. In case of service by mail of any notice required by this Division, such shall be served by mailing notice by certified mail, postage prepaid, return receipt requested.

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

8.02.094 Fraud; Refusal to Collect; Evasion

If any transient lodging tax collector shall fail or refuse to collect the tax or to make, within the time provided in this Division, any report or remittance of the tax or any portion thereof required, or make a fraudulent return or otherwise willfully attempts to evade the requirements of this division, the Tax Administrator shall proceed in such manner deemed best to obtain the 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 Division from any transient lodging tax collector that has failed or refused to collect the same and to report and remit such tax, the Tax Administrator shall proceed to determine and assess against such transient lodging tax collector the tax, interest and penalties provided by this Division. When determination is made, notice shall be given as provided by subsection 8.02.093.

8.02.095 Delay

If the Tax Administrator believes that the collection of any tax or any amount of any tax required to be collected and paid to the County will be jeopardized by delay, or if any determination will be jeopardized by delay, the Tax Administrator 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 transient lodging tax collector may petition, after payment has been made, for a redemption and refund of such determination, if a petition is filed within twenty (20) days from the date of service of notice by the Tax Administrator.

SECTION 8.02.100 REDETERMINATIONS

8.02.101 Petition for Redetermination

Any person against whom a determination is made under Section 8.02.090, or any person directly interested, may petition for a redetermination, redemption and refund within twenty (20) days from the date of service of notice by the Tax Administrator, as required by subsection 8.02.095. If a petition for redetermination and refund is not filed within the time required, the determination becomes final at the expiration of the twenty (20) day period.

8.02.102 Hearing on Petition for Redetermination

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 the petition, shall grant the person a public hearing and shall give them twenty (20) days' notice of the time and place of hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.

8.02.103 Order Following Hearing

The order or decision of the Tax Administrator upon a petition for redetermination of a redemption and refund becomes final twenty (20) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Transient Lodging Tax Review Committee within twenty (20) days after the service of such notice.

8.02.104 Applicability of Petition

No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the transient lodging tax collector has first complied with the payment provisions of this Division.

SECTION 8.02.110 SECURITY FOR COLLECTION OF TAX

To ensure compliance with this Division, the Tax Administrator may require transient lodging tax collector to deposit with the County security in a form and amount determined by the Tax Administrator. The amount of security shall not be greater than twice the transient lodging tax collector's estimated quarterly liability for the period for which they file returns, or five thousand dollars ($5,000.00), whichever amount is lesser. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided.

At any time within three years after any tax, or any amount of tax required to be collected, becomes due and payable, or at any time within three years after a determination becomes final, the Tax Administrator may bring an action in the courts of this state, any other state, or of the United State in the name of the County to collect the amount delinquent plus penalties and interest, reasonable, attorneys' fees determined by the court, and court costs.

SECTION 8.02.120 LIEN

8.02.121 Taxes Create Lien

The tax imposed by this Division together with the interest and penalties, reasonable attorneys' fees, filing fees, and advertising costs shall be and, until paid, remain a lien from the date of its recording with the County Clerk, and superior to all subsequent recorded liens on all tangible personal property used in the transient lodging facility of a transient lodging tax collection within the County, and may be foreclosed on and sold as may be necessary to discharge shall be issued by the Tax Administrator whenever the transient lodging tax collector is in default in the payment of the tax, interest, and/or penalty. A copy of the notice shall be sent by certified mail to the transient lodging tax collector. The Tax Administrator may send notice of the lien to owners affected by the lien. The personal property subject to a lien seized by any deputy or employee of the Tax Administrator may be sold at public auction after ten (10) days' notice by one publication in a newspaper of general circulation published in the County. Any lien for taxes shown on the records of the proper County official shall, upon 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 transient lodging tax collector or person making such payment shall have a receipt stating thereon that the full amount of taxes, penalties, and interest have been paid and that the lien is hereby released and the record of lien is satisfied.

8.02.122 Attachment of Lien to Personal Property

The lien or liens created by this section attach to all tangible personal property referenced herein. The lien or liens created shall also attach to the proceeds of the sale and tangible personal property subject to the lien or liens if:

a. Subsequent to the recording of the lien or liens, tangible personal property, or any part thereof, is sold or delivered to an agent, broker, cooperative agency, or other person to be sold or otherwise disposed of; and

b. The purchaser, agent, broker, cooperative agency, or other person has actual or constructive notice of the filing of the lien or liens, and the proceeds that were received or will be received from the sale or other disposal of the tangible personal property have not been delivered to the owner of the tangible personal property.

8.02.123 Proceeds from Sale of Personal Property

When a lien created by this section attaches to the proceeds of a sale of tangible personal property under subsection 8.02.122 a purchaser, agent, broker, cooperative agency, or other person shall not deliver the proceeds or that portion of the proceeds equal to the amount of the lien claim to the owner until:

a. A time specified by Section 8.02.080 of this Division during which a suit to foreclose the lien must be commenced elapses;

b. A court orders delivery of the proceeds; or

c. The Tax Administrator issues a receipt stating that the full amount of taxes, interest, penalties, and costs thereon have been paid and that the lien is released and the record of lien is satisfied.

8.02.124 Destruction of Property Subject to Lien

Any person to whom a notice of lien has been given as provided by this section, who dismantles, removes from the County, misdelivers, or conceals tangible personal property or the proceeds of the sale of tangible personal property upon which there is a valid lien without the written consent of the lien claimant shall be liable to the lien claimant for damages proximately resulting therefrom which sum may be recovered according to the provisions of Section 8.02.080 of this Division.

SECTION 8.02.130 REFUNDS

8.02.131 Refunds by County to the Transient Lodging Tax Collector

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 Division, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three 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 amount then due and payable from the transient lodging tax collector from whom it was collected or by whom it was collected or by whom paid and the balance may be refunded to such transient lodging collector, or their administrators, executors or assigns.

8.02.132 Refunds by County to Transient

Whenever the tax required by this Division has been collected by a transient lodging tax collector, and deposited by the transient lodging tax collector with the Tax Administrator, and it is later determined that the tax was erroneously paid 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, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.

8.02.133 Refunds by Transient Lodging Tax Collector to Tenant

Whenever the tax required by this Division has been collected by the transient lodging tax collector and it is later determined that the tenant occupies the transient lodging facility for a period exceeding twenty-nine (29) days without interruption, the transient lodging tax collector shall refund to such tenant the tax previously collected from the tenant as a transient. The transient lodging tax collector shall account for such collection and refund to the Tax Administrator. If the transient lodging tax collector has remitted the tax prior to the refund or credit to the tenant, they shall be entitled to a corresponding refund under this section.

SECTION 8.02.140 ALLOCATION OF FUNDS

The allocation, use and disbursement of TLT funds shall be consistent with ORS 320.300 to 320.350, Curry County Ordinance Nos. 19-01, 19-02, and Curry County Code, Article Eight, Divisions One and Two; and any valid amendments thereto.

1. The portion of monies contained in the Transient Lodging Tax Fund that are dedicated by Article Eight, Division One, for tourism promotion and tourism-related facilities ("TLT Funds") shall be distributed and administered in accordance with this Section:

   a. First, subject to Board approval, half shall be allocated to the County Fair Fund, Event Center Account;

   b. The remainder shall be administered by a Tourism Promotions Committee, appointed by the Board.

   c. The County Tourism Promotions Committee shall:

      i. Consist of two members appointed from South Curry County, two members from Central Curry County, two members from North Curry County, as defined by the district boundaries of the three Curry County School Districts, and one member at large. Members shall be composed of individuals who represent a tourism-based business or a promotions based business. The at-large member shall be a community representative. The Committee shall not be comprised of more than three individuals from a similar business industry.

      ii. Annually conduct a county-wide needs assessment of tourism-related facilities within unincorporated areas.

      iii. Develop and amend as necessary county-wide and regional strategies for tourism promotion.

      iv. In the first year, the Committee will prepare and present to the Board for its approval, a written report with findings on its needs assessment for Tourism Related Facilities; county-wide and regional strategies for tourism promotion; and its proposed budget for administration and overhead for the Committee.

      v. In subsequent years the Committee will prepare and present to the Board for approval, an annual report that contains, in addition to the matters described this section, the details concerning the allocations, amounts and uses of TLT funds during the prior year, an accounting of the Committee's expenditures of TLT funds for administration and overhead and the unexpended balance of TLT funds in the possession of the Committee.

vi. The Committee shall work in partnership with other government entities and organizations who participate in tourism promotion to solicit input, expertise, and resources.

d. The purpose of the Tourism Promotions Committee is to advise the County on the policies for the uses of TLT funds; the strategies for tourism promotions and the needs assessment for tourism-related facilities.

e. Following receipt of a written report described in this section, the Board will conduct a public presentation concerning the report, the proposed percentage allocations for TLT funds, the proposed strategies for tourism promotion and the Committee's performance.

f. The Board will annually retain the TLT funds for Tourism Promotion and Tourism Related Facilities until it has approved the performance of the Committee and the Committee's written report for that year, or the created written report for that year. Once such approval has been given, the retained TLT funds will be released to the Committee with the balance due for that year to be released by the County Treasurer before the end of each calendar quarter for the amounts collected in the prior calendar quarter.

g. In allocating TLT funds for Tourism Promotion, the Committee shall give preference to collaborative proposals that are consistent with the approved strategies and involve broad participation within the hospitality and tourism industry or other promotional proposals that embrace County-wide themes.

h. The Board may provide for limits on the amount of TLT Funds that the Committee may retain for the overhead, administration, and amounts of unallocated TLT funds without coming back to the Board for approval to exceed those limits.

i. Other than in subsection (a) above, the Board shall not require specific allocations or create earmarks of tourism related TLT revenues; however, the purpose of creating the Tourism Promotions Committee is to have representation from all areas of the County with the goal that TLT tourism-related revenues be distributed fairly among the County's regions.

2. For General Services:

a. Not to exceed five percent (5%) of non-tourism TLT revenues may be spent on administration;

b. Balance of non-tourism TLT revenues to fund Curry County Sheriff Patrol Deputies.