

**County of Humboldt**  
**Transient Occupancy Tax**  
**General Guidelines, Policies & Procedures & FAQ's**  
(To be used in conjunction with Humboldt County Ordinance 712)

**Initial Process:**

Once an establishment responsible for collecting Transient Occupancy Tax (TOT) has been recognized as being within the jurisdiction known as the unincorporated areas of Humboldt County, an information packet is immediately mailed from the office of the Tax Collector containing the following: cover letter; Ordinance 712; Registration form; Transient Occupancy Tax Return form; Affidavit of Extended Occupancy form; General Guidelines, Policies and Procedures and FAQ's (Frequently Asked Questions).

1. Upon receipt of a TOT packet, it is imperative that the Registration form be submitted to the Humboldt County Tax Collector-Treasurer within 30 days. Upon receipt and processing, a Transient Occupancy Registration Certificate will be provided which should be posted in a conspicuous place on the premises.
2. Transients are subject to and shall pay 10% of the rent charged by the TOT operator. The operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the Tax Collector, make a return to the Tax Collector, on forms provided, of the total rents charged and receivable and the amounts of tax collectible for transient occupancies. A tax return form must be filed quarterly even if no tax is due. Operators shall report Gross Rent for Occupancy of Rooms, report and include an Affidavit of Extended Occupancy form (individuals shall be deemed to be a transient until a period of thirty (30) days has expired **unless** there is an **agreement in writing** providing for a longer period of occupancy), and report and include rent covered by exemptions specific to the County of Humboldt Ordinance Code. All taxes collected by operators shall be held in trust for the account of the County until payment is made to the Tax Collector pursuant to 712. Remit payment of tax collected to the Tax Collector within 30 days after each calendar quarter-end as follows:

<b><u>Period</u></b>	<b><u>Final Due Date</u></b>	<b><u>Delinquent Date</u></b>
January, February, March	April 30 <sup>th</sup>	May 1 <sup>st</sup>
April, May, June	July 31 <sup>st</sup>	August 1 <sup>st</sup>
July, August, September	October 31 <sup>st</sup>	November 1 <sup>st</sup>
October, November, December	January 31 <sup>st</sup>	February 1 <sup>st</sup>

Please pay special attention to the due dates above. Penalties under 712-8 are strictly enforced on late filings of Transient Occupancy Taxes. Payments **postmarked** by the final due dates above will be accepted as paid timely.

**Policies & Procedures:**

1. It is the responsibility of the business operator to submit tax return forms in a timely manner to avoid associated penalties for delinquent submissions. Reporting forms are available on our website at: <http://humboldt.gov/299/Transient-Occupancy-Tax> we mail out one form each quarter to those registered.

Any operator who is behind in filing TOT returns will be subject to an audit, placed on a monthly reporting schedule, and may be subject to a Lien for Delinquent Transient Occupancy Tax Due, pursuant to Ordinance Section 712-15

2. **The TOT Ordinance requires you to retain your records for a period of three (3) years.** These records have to provide a sufficient audit trail from booking/registration to quarterly income figures reported to the County, and can include registration records, revenue/deposit summaries, general ledger and similar records. Other documents may be required during the audit including financial statements and income tax returns. Audits are conducted every three to four years or at shorter intervals due to delays in submission of TOT returns and remittances.

Information obtained, as part of the audit, shall be used only for purposes related to the administration of the Humboldt County Transient Occupancy Tax.

3. **Returns and payments are due immediately to the County upon cessation of business for any reason (sale, bankruptcy, renovation, etc.).** It is your obligation to obtain the reporting forms from this office before the cessation of business. New buyers should take a "Buyer Beware" stance when purchasing property from a seller responsible for TOT. When a change of ownership is to take place, the seller has liability for disclosure that all taxes have been paid; however, the new owner is responsible for confirming this information and withholding from the purchase price amounts owed pursuant to R & T Code Section 7283.5(e). Otherwise, outstanding TOT owed on property that takes on new ownership becomes the liability of the new owner. A new Registration form for TOT must be submitted by the new owner when there is a change of ownership within 30 days of commencing business, pursuant to 712.6.

**Clarifications:**

1. "Rent" includes but is not limited to all of the following:
  - a) Fees charged for pets;
  - b) Fees charged for extra persons;
  - c) Resort fees;
  - d) Linen fees;
  - e) Cleaning fees;
  - f) Late check-out fees;
  - g) Charges for roll away beds; or
  - h) Rent retained for canceling a reservation for lodging.

Notwithstanding the foregoing, "Rent" does not include consideration or charges received by an operator for any of the following:

- a) Donated units (if occupancy charges to guests = \$0);
  - b) Childcare services;
  - c) Non coin-operated safes or other secure storage fees; or
  - d) Owner usage.
2. "Tax Collector" means the Humboldt County Tax Collector.

### **Frequently Asked Questions (FAQ'S)**

1. *Is TOT imposed on camping facilities?*

NO, Camping facilities are assessed a 2% Humboldt Tourism Assessment. Pursuant to resolution 12-38.

2. *What happens if I'm late filing my report?*

The Tax Collector may impose shorter reporting periods for any Operator not adhering to the reporting schedule. Any operator who is behind in filing TOT tax returns will be subject to a Lien for Delinquent Transient Occupancy Tax Due. Said delinquencies shall be collected in the same manner as any unsecured tax collection procedure as provided by the California Revenue and Taxation Code.

3. *What is the process following a hearing and filing an appeal on taxes owed?*

An operator may appeal to the Tax Collector. At any appeal, the operator has the burden of proving that the Tax Collector's determination is incorrect and producing sufficient evidence to establish the correct tax liability.

The amount determined to be due shall be payable after 15 days. Any operator aggrieved by any decision of the Tax Collector with respect to the amount of the tax imposed by this article, and interest and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the County Clerk within 15 days of the serving or mailing of the determination by the Tax Collector of the amount of tax due. The Tax Collector shall present the matter to the Board and include evidence submitted by the operator. The Tax Collector shall also include proposed findings and a resolution of the appeal. The findings of the Board of Supervisors shall be final and conclusive and shall be served upon the appellant. Any amount found to be due shall be immediately due and payable upon service of notice.

Outstanding taxes that remain unpaid may lead to the Tax Collector embarking on a process beginning with filing an "Intention to File Lien" up to and including closure of the establishment.

4. *What happens when a tax lien is filed?*

Transient Occupancy Tax (TOT)

Policies & Procedures

Page 4

The Tax Collector is authorized to record a Certificate of Delinquency of Transient Occupancy Tax Lien with the Humboldt County Recorder against any operator who fails to remit taxes, penalties or interest due within stipulated timeframes.

At any time within three (3) years after any operator is delinquent in the payment of any amount herein required to be paid off within three (3) years after the last recording of a Certificate of Delinquency of Transient Occupancy Tax Lien pursuant to 712-15, the Tax Collector may issue a warrant directed to any sheriff, marshal, or constable, for the enforcement of the liens and the collection of any tax and penalties required to be paid to the County under this ordinance. The warrant shall have the same effect as a writ of execution, and be executed in the same manner and with the same effect as a levy and sale pursuant to a writ of execution.

In lieu of issuing a warrant, at any time within three (3) years after a Certificate of Delinquency of Transient Occupancy Tax Lien is recorded, the Tax Collector may collect the delinquent amount by seizing, or causing to be seized, any property, real or personal, of the operator and selling any non-cash or non-negotiable property, or a sufficient part of it, at public auction to pay the amount of tax due, together with any penalties, interest, and any costs incurred on account of the seizure and sale. Any seizure made to collect taxes due shall only be to property of the operator not exempt from execution under the provisions of the Code of Civil Procedure.

5. *When can I expect to receive my reporting form?*

Reporting forms are available 24/7 on our website <http://humboldt.gov/299/Transient-Occupancy-Tax>. We mail out a TOT Return at the end of each Quarter to those registered, but it is your responsibility to request a form if you do not receive one or do not have internet access.

6. *Are there any consequences for failing or refusing to register as required? Failing or refusing to furnish a return or other required data? Rendering false or fraudulent returns?*

Any operator or other person who fails or refuses to register as required, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Tax Collector, or renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as otherwise provided pursuant to 712.6 of the Ordinance Code.

7. *Are government, county, state, or federal employees exempt from TOT's?*

Yes. Non-taxable room receipts that an Operator may claim are:

- a) Owner stays;
- b) Long-term stays (31+ days) with Affidavit of Extended Occupancy Form;
- c) Complimentary stays; or

- d) Foreign Diplomats.
- e) Government Employee's