



SHELLEY PIECH
TREASURER/TAX COLLECTOR

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To all lodging establishments:

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In the past few years, the popularity of “sharing economy” businesses such as Airbnb and Vacation Rentals By Owner (VRBO) have grown immensely. With this growth, questions arise about applications of the local ordinance requiring payment of transient occupancy tax (TOT) on the rental space and whether the owner or online booking agent must collect and remit the tax. This letter is to clarify liability of hotel proprietors and online booking agents to collect and pay TOT under the Tuolumne County Ordinance Code, Chapter 3.32.

Chapter 3.32 makes all hotel proprietors liable for TOT unless they meet the exemptions as outlined in Section 3.32.040. The definition of “hotel” in Section 3.32.020 is broad and does capture rental of rooms in residential homes if rent is paid and the space is rented for thirty (30) days or less.

With regard to liability of online booking agents, Section 3.32.020 defines “operator,” as a hotel proprietor or any agent performing functions of a proprietor of any type. As a result, an online booking agent such as Airbnb that markets, books, and *particularly takes payment*, would fulfill those proprietor functions and would be an “operator” liable to collect and remit TOT. Of course, not all online booking businesses follow the same business model. For example, some agents market and schedule only and do not take payment. Therefore, liability for those agents would need to be on a case-by-case basis. However, that is a matter for County enforcement of TOT only against the online booking agent.

Regardless of the liability of an online booking agent, Chapter 3.32 makes all hotel proprietors liable for TOT unless they meet the exemptions as outlined in Section 3.32.040. Therefore do not assume your online booking agent is fulfilling the requirements of TOT. In Tuolumne County, no online booking agents are fulfilling those duties at this time, so those hotel proprietors using such services that do not collect and remit TOT are liable for TOT and are subject to immediate enforcement. It is ultimately the hotel proprietor’s responsibility to ensure collection and remitting of TOT.

If you have any questions or concerns related to responsibility for TOT when using online booking agents, please contact the Tuolumne County Tax Collector.

Sincerely,

Shelley Piech
Tuolumne County Treasurer-Tax Collector