



Meeting Date: 04/10/07

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s).	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s).	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other	<input type="checkbox"/> Other _____

Prepared By: Gary Gillig, City Attorney *GG* Agenda Item No. I-1

Reviewed By: City Manager *JLB* City Attorney *GG* Finance *JA* Other _____

DATE: March 29, 2007

TO: City Council

FROM: Gary L. Gillig, City Attorney *Gary Gillig*
City Attorney's Office

SUBJECT: Amendments to Transient Occupancy Tax Ordinance Exemptions

RECOMMENDATION

That City Council approve the first reading by title only and subsequent adoption of an ordinance amending portions of Chapter 13 of the City Code, including Sections 13-18, 13-20, 13-46 and 13-47, concerning exemptions from the transient occupancy tax, period for retention of records, duty of successor operator and issuance of tax clearance certificates.

DISCUSSION

In 2006, the Finance Director and the consulting firm of MBIA Municipal Services Company (MBIA) conducted a comprehensive review of the City's transient occupancy tax program. Among other reports, this review included an analysis of the transient occupancy tax ordinance.

In its report MBIA concluded that "[t]he City's ordinance is excellent ... [a]nd, we do not suggest that Oxnard has any need for our more elaborate ordinance review service. It truly has an excellent ordinance, one of the best that we have encountered in California." MBIA continued by suggesting enhancements to the ordinance to reflect recent changes in State law and to assist in establishment of more user friendly forms and guidelines. The proposed ordinance amends the current ordinance in providing for a standard form for certain exemptions from paying the tax, retention of records, duties of successor operators and issuance of tax clearance certificates.

The amendment to Section 13-18 clarifies that officers and employees of the federal and state governments are, upon execution of the approved standard form, exempt from paying the tax. Section 13-20 is amended to reflect the legislature's decision to extend the statute of limitations for collection of delinquent tax by the City from three years to four years. This amendment requires the operator to retain records for four years instead of the current three years.

The legislature has modified the duties of successor operators to pay the tax and, also, provided procedures for the successor operator to obtain a timely tax clearance certificate from the City. The amendments to Sections 13-46 and 13-47 reflect these changes. Copies of the Government Employee Exemption Claim Form and Request for Issuance of Tax Clearance Certificate are included as attachments to this agenda report.

FINANCIAL IMPACT

No financial impact.

- Attachment
- 1 - Ordinance Amending Chapter 13 of the City Code
 - 2 - Government Employee Exemption Claim Form
 - 3 - Request for Issuance of Tax Clearance Certificate

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO.

ORDINANCE OF THE CITY OF OXNARD, CALIFORNIA,
AMENDING THE TRANSIENT OCCUPANCY TAX

The City Council of the City of Oxnard does ordain as follows:

Part 1. Subsection (C) of section 13-18 of the City Code is amended to read:

“An employee or officer of the United States government or an employee or officer of the state government may be exempt from paying the tax. To be exempt from paying the tax, the federal or state officer or employee shall execute, under penalty of perjury, a standard form, as approved by the City Attorney and maintained in the City Clerk’s Office, claiming such exemption.”

Part 2. Section 13-20 of the City Code is amended to read:

“Every operator liable for the collection and payment to the city of the tax shall keep and preserve for not less than four years all records that may be necessary to determine the reasonable request by the tax collector.”

Part 3. Section 13-46 of the City Code is amended to read:

- “(A) If an operator is liable for any tax, penalties or interest and sells or otherwise disposes of the business, the successor operator shall notify the tax collector of the date of purchase of the hotel, timeshare rental or other lodging, at least 30 days before the date of purchase or if the decision to sell was made less than 30 days prior to actual purchase, then immediately, and shall withhold a sufficient portion of the purchase price to equal the amount of any tax, penalties or interest due until the operator produces a tax clearance certificate from the tax collector stating that no tax, penalties or interest is due. The standard form of the tax clearance certificate shall be as approved by the City Attorney and maintained in the City Clerk’s Office.
- “(B) If the operator does not present a receipt or tax clearance certificate within 90 days after the successor operator commences to conduct business, the successor operator shall deposit the withheld amount with the tax collector.
- “(C) If the successor operator fails to withhold a portion of the purchase price as required, the successor operator shall be liable to the city for the payment of the tax required to be withheld.”

Part 4. Section 13-47 of the City Code is amended to read:

“SEC. 13-47. ISSUANCE OF TAX CLEARANCE CERTIFICATE

(A) A successor operator attempting to obtain ownership of a hotel, timeshare rental or other lodging, the operator of which is required to collect the tax, may request the tax collector to issue a tax clearance certificate.

(B) (1) Within 90 days after receiving a written request from the successor operator for a tax clearance certificate stating that no tax, penalties or interest is due, the tax collector shall either issue the tax clearance certificate; or (2) request the current operator of the hotel, timeshare rental or other lodging to make available that operator’s transient occupancy tax records for the purpose of conducting an audit regarding transient occupancy taxes that may be due and owing from the operator and complete the audit on or before 90 days after the date that the current or former operator’s records are made available to the tax collector and issue a tax clearance certificate within 30 days of completing the audit.”

Part 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation, published and circulated in the City. Ordinance No. ____ was first read on _____, 2006, and finally adopted on _____, 2006, to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Gary L. Gillig 04-02-07
Gary L. Gillig, City Attorney

ATTACHMENT NO. 1
PAGE 2 OF 2

000004

Government Employee Exemption Claim form

(Guest Complete) ALL AREAS OF THE FORM MUST BE COMPLETED

Employee Name		
Address		
City	State	Zipcode
Work Phone ()	Home Phone ()	
Level of Government Agency <div style="display: flex; justify-content: space-around;"> State Federal </div>		
Government Agency Name		
I declare under penalties of perjury that the information provided on this form is true and correct to the best of my knowledge		
Signed	Date	
(Lodging Personnel Only)		
Check-in Date	Check-out date	
Type of documentation obtained to prove guest is on government business <input type="checkbox"/> Travel orders from the government employer <input type="checkbox"/> A government warrant issued to pay for the occupancy <input type="checkbox"/> A government credit card to pay for the occupancy Important: (a copy of guest photo identification must be attached to this form)		
Lodging Personnel Signature	Date	

000005

ATTACHMENT # 2
PAGE 1 OF 1

Request Receipt Date:

REQUEST FOR ISSUANCE OF TAX CLEARANCE CERTIFICATE

Internal Tracking Number:

(Requestor must complete)

1. Property Name		
2. Property Owner(s) Name(s)		
3. Property Address (No. and Street, City, ZIP)		
4. Prospective Purchaser(s) Name(s)		
5. Address of Purchaser(s) (No. and Street, City, ZIP)		
6. Purchaser(s) Area Code and Phone No.		
7. Are You Continuing Business Activity After Clearance? Yes No		
8. I declare under penalty of perjury that I am the prospective owner of the property on which tax clearance is requested, and that the information is true.	Signature	Date
	Print Name	

(Local Government Section)

Request for Clearance Certificate has been denied due to: ___ Current owner(s) records are insufficient for audit ___ The subject property has an amount due and owing for Transient Occupancy Tax of \$ _____ ___ Records from _____ to _____ must be made available for an audit	
Request for Clearance Certificate has been approved: ___ Records show the subject property to have no current Transient Occupancy Tax liability due and owing	
Certificate has been granted for tax due and payable through	
Local Government Authorized Signature	Date

Original Copy - Remit to Local Government Copy - Requestor

000006

ATTACHMENT # 3
PAGE 1 OF 1