

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 2/28/2024)

[Business and Tax Regulations Code - Transient Occupancy Tax Returns]

Ordinance amending the Business and Tax Regulations Code for tax periods beginning on or after January 1, 2024, to require short-term rental hosts that do not operate through a qualified website company to file transient occupancy tax returns annually, waive the requirement for those hosts to obtain a certificate of authority from the Tax Collector, change the period for filing transient occupancy tax returns from annually to monthly for all hotel small operators other than short-term rental hosts, codify the Tax Collector’s qualified website company program and the return and payment requirements for Tourism Improvement District and Moscone Expansion District assessments, and require qualified website companies to collect and remit Tourism Improvement District assessments.

Existing Law

Operators of hotels and other short-term rentals collect the Transient Occupancy Tax (“TOT”) from guests and remit the collected taxes to the City. Operators also must obtain a certificate of authority from the Tax Collector. Operators generally file TOT returns with the Tax Collector and remit the taxes on a monthly basis. Operators that receive total rents from hotel rooms and short-term rentals that do not exceed \$40,000 or \$250,000 in combined hotel and parking revenue are “deemed small operators,” which file returns and remit taxes on an annual basis and do not need to obtain a certificate of authority. Similarly, parking station operators are deemed small operators if their rent from parking operations do not exceed \$40,000 and the above \$250,000 ceiling is not exceeded.

By contractual agreement with the Tax Collector, persons who rent out any portion of their residence entirely through one or more qualified website companies (“QWCs”) are relieved of their obligation to collect and remit TOT, file TOT returns, and obtain a certificate of authority. The QWCs are responsible for the hosts’ tax filing and collection obligations. In addition to the TOT, hotels may be subject to Tourism Improvement District (“TID”) and Moscone Expansion District (“MED”) assessments. Beginning on January 1, 2024, short-term rental hosts will be subject to the TID assessment.

Amendments to Current Law

This ordinance would require short-term rental hosts to file TOT returns and remit the tax on an annual basis and eliminate the requirement that hosts obtain a certificate of authority. Hotel operators that are not short-term rental hosts would be required to file TOT returns and remit the tax on a monthly basis and also obtain a certificate of authority. This ordinance would amend the above provisions to limit deemed small operators only to parking station operators and remove the \$250,000 ceiling.

This ordinance would codify the QWC program and require QWCs to collect and remit any applicable TID assessments on behalf of their hosts. This ordinance also would codify the payment and return filing requirements for the TID and MED assessments.

This ordinance would be retroactive to tax periods beginning on or after January 1, 2024. Because there currently are no hotel small operators that file TOT returns on an annual basis, the retroactive change to the TOT filing period should not accelerate any existing small operator's filing requirement from an annual to a monthly due date. And because there currently are no short-term rental hosts that file on a monthly basis, the retroactive change to the TOT filing period should not change any existing host's filing requirement from a monthly to an annual due date.

Background

The ordinance was amended in committee on February 28, 2024, to clarify that, to qualify as a QWC, QWCs must submit a declaration attesting that they will collect and remit TOT and TID assessments either retroactively to January 1, 2024, or from any later date not later than the first day of the second month following the month in which they submit the declaration.

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