



## QUESTIONS AND ANSWERS TRANSIENT OCCUPANCY TAX ORDINANCE

---

**1. Who must pay the tax?**

Every transient occupant of a hotel/motel, not exempt by the ordinance, shall pay the tax to the operator at the time the rent is paid.

**2. Who is a transient?**

A transient is a person occupying space in a hotel/motel for a period of less than 30 consecutive calendar days.

**3. Are guests that stay over 30 days exempt from the tax?**

Yes, HOWEVER any time a guest stays in your hotel/motel over 30 days **YOU WILL BE IN VIOLATION OF CITY'S ZONING LAWS.**

When operating a hotel/motel in Santa Maria your location must be zoned for a hotel/motel under the Santa Maria Municipal Code (S.M.M.C § 12-13.03). A hotel/motel is defined as a structure designed for "transients" (S.M.M.C. § 3-9.02 subd.(a)). "Transient" is a person who occupies a room by agreement, for 30 days or less (S.M.M.C. § 12-2.141). Any occupancy in excess of 30 days is a "dwelling" (S.M.M.C. § 12-2.53), or a "residential use" (S.M.M.C. § 12-2.123). Residential uses are generally not permitted in areas zoned for hotels/motels. **VIOLATIONS OF THESE CODE SECTIONS ARE MISDEMEANORS** (S.M.M.C. § 12-42.04). A violation occurs for EACH occupancy over 30 days.

**4. What steps should I follow if I am currently violating the code sections referenced in Item 3 by allowing guests to stay over 30 days?**

A written 30 day notice of these provisions, to tenants currently not paying the tax and staying over 30 days, is appropriate. Collection of the tax should commence from all tenants when this 30 day notice period expires. In addition, you must not allow anyone to reside in your hotel/motel for over 30 consecutive days. This applies to both new and current tenant. Nothing prohibits these tenants from checking out and in again but they will ALWAYS be required to pay the 10% tax when each new tenancy begins.

**5. Is there any criteria that would make a guest exempt from paying the tax?**

Yes, persons employed by the federal government are exempt from paying the tax when: (1) the government itself arranges for the rental and the bill is sent directly to the government agency; (2) when the traveler (transient) rents a room and arranges for the bill to be sent to the government agency for payment; or (3) the government agency supplies an exemption form for each individual guest.

American Express is currently issuing two different types of cards to federal employees that is going to make it easier to tell the difference between exempt and fully taxable purchases. The differences are listed below:

Employee Billed Cards - These cards are identified by a 15-digit account number that starts with the prefix 3783, followed by a 7 or 8. These cards are issued to employees of defense and civilian agencies. Stays in your hotel/motel/motel using this card are **fully taxable and subject to transient occupancy tax.**

Government Billed Cards - These cards are identified by the same 15-digit number that starts with the prefix 3783, but this card is followed by a 9. These cards are billed directly to and paid for by the U.S. Government. Therefore, purchases made by this card are **not subject to transient occupancy tax.**

The only consistent identifier will be the 7, 8, or 9 following the 3783. The name of the employee and the name of the federal agency are in the lower left hand corner of the card, and in most cases the card will say "United States Government" underneath the American Express logo; however, this may not always be true.

**6. If working on a federal contract, are contractors exempt from the tax?**

No. Federal contractors working on a federal contract are not automatically exempt from paying the tax. However, they may obtain an exemption if the hotel/motel directly submits the bill to the federal government for payment.

**7. Who is responsible for collecting the tax?**

Each operator is responsible for collecting the tax imposed by the ordinance. The tax must be collected from each transient at the same time the rent is collected. The tax must be listed separately on all bills (invoices, folios, etc.) given to the guests.

8. **If a customer has guaranteed a room with a credit card or other deposit and does not show up, should the tax be added to the "No Show" charge?**  
Yes. According to the Transient Occupancy Tax code, "Rent" means the consideration charged, whether or not received for the occupancy of space in a hotel/motel. Therefore, charges for "No Shows" should include the tax and be remitted to the City.
9. **When should the tax be remitted to the City of Santa Maria?**  
The tax must be reported and remitted to the City of Santa Maria no later than 30 days after the close of each month or quarter depending on your payment cycle set up with the City. For remittance purposes, the City supplies report forms to hotels/motels. The tax must be reported and remitted for the period, which it is collected or listed as an account receivable.
10. **When an operator or owner terminates or sells his/her business, how should the remittance be handled?**  
When an operator/owner terminates or sells his/her business, a tax return must be prepared immediately and all the taxes collected, through the last day of ownership, must be remitted to the City.
11. **What penalties and interest charges are assessed for the delinquency of transient occupancy tax returns?**  
If an operator fails to report and pay to the City, tax that has been collected on or before the 31<sup>st</sup> day after the close of the date when the tax is due, a 10 percent penalty and .5 percent interest is due. If the delinquency extends for a second month after the original delinquency, another 10 percent penalty and .5 percent interest is due. Interest will continue to accrue at a rate of .5 percent per month for each month thereafter.
12. **What if an operator fails to collect the tax?**  
If an operator fails or refuses to collect the tax under City of Santa Maria Municipal Code Title 3, Chapter 9 (Transient Occupancy Tax) the tax may be assessed against the operator.
13. **What records must an operator keep?**  
It shall be the duty of every operator to keep and preserve for a period of three years, all records necessary to verify the tax. These records must include all exemption documentation. These records must be available for inspection at all reasonable times.
14. **Under what circumstances can a refund of the tax be made?**  
Refunds can be made if:  
a. The amount of the tax, interest or penalty has been overpaid or paid more than once.  
b. The amount of the tax has been erroneously or illegally collected or received by the City under this ordinance.
15. **Who may claim a refund?**  
An operator may claim a refund or take as a credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received, when it is established in a manner prescribed by the Finance Department, that the person from whom the tax has been collected was not a transient. Neither the refund, nor the credit shall be allowed unless a refund has been made or a credit allowed to the tenant.
16. **When can a refund be made?**  
A refund can be made by the City to the operator, if a written claim is submitted to the Department of Administrative Services, Finance Division stating the reasons for the requested refund/credit. The claim must be supported by written records and filed within three years.
17. **Can service charges, that operators pay to credit card companies, be taken as a credit against the tax owed to the City?**  
No. Service charges are not allowable deductions. The cost paid to credit card companies for redeeming their vouchers is considered a cost of doing business.
18. **What type of exemption documentation must I retain for inspection?**  
During a Transient Occupancy Tax Ordinance review you will be asked to provide written documentation for all exemptions listed on your hotel's/motel's Transient Occupancy Tax Ordinance return. Any exemption not supported by written documentation will be disallowed resulting in additional tax.