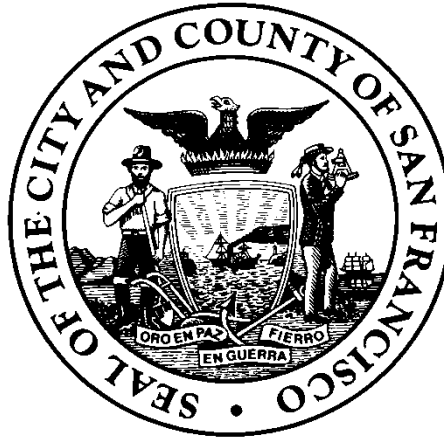


# **CITY AND COUNTY OF SAN FRANCISCO**

## **TREASURER & TAX COLLECTOR'S OFFICE**



### **TAX COLLECTOR REGULATION No. 2003-1**

#### **TAX ON TRANSIENT OCCUPANCY OF HOTEL ROOMS**

San Francisco Business and Tax Regulations Code, Article 7

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector's authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code §§6.7-1, 6.16-1 and 504.

(b) Purpose. The purpose of this regulation is to clarify the tax treatment and interpretation of the Tax Collector's Office regarding the consideration for services and accommodations accompanying the use or possession of hotel guest rooms that are subject to the transient occupancy tax imposed under Article 7 of the San Francisco Business and Tax Regulations Code.

(c) Definitions. For purposes of this regulation the terms “operator”, “occupant”, “occupancy”, “hotel”, “guest room”, and “rent” are as defined in Section 501 of Article 7 of the Business and Tax Regulations Code. The term “Hotel Tax” means the tax on the occupancy of hotel guest rooms imposed under Article 7 of the Business and Tax Regulations Code.

(d) Background. The City and County of San Francisco taxes the occupancy of hotel guest rooms. The Hotel Tax is calculated as a percentage of the rent for the occupancy of a hotel guest room in San Francisco. The law defines “occupancy” as “the use or possession, or the right to the use or possession of any room or apartment in a hotel or to the use and possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.” The law requires that hotel operators collect the tax from occupants. Occupants are the persons who, for consideration, use or possess, or have the right to use or possess, a room in a hotel in San Francisco. Hotel operators hold Hotel Tax revenues in trust and remit them to the Tax Collector every month. If the hotel operator fails to collect the tax, the operator is liable to the City and County for the amount of the tax due on the amount of taxable rent for the occupancy of the room as if the occupant had paid the tax. Hotel operators self-report the Hotel Tax and file returns with the Tax Collector. From time to time the Tax Collector examines the books and records of hotel operators to ensure compliance with Article 7 and other provisions of the Business and Tax Regulations Code.

The Tax Collector interprets the definition of "occupancy" set forth in Section 501(c) of Article 7 to include all furnishings, services and accommodations accompanying the use and possession of any room, including but not limited to parking and valet services that are exempt from the parking tax under Section 606(2) or (3) of Article 9 of the Business and Tax Regulations Code. The consideration paid by the occupant, or on behalf of or for the benefit of the occupant, for the room and all furnishings, services and accommodations accompanying

the use and possession of the room, including but not limited to such parking and valet services, is subject to the Hotel Tax except (i) amounts that are subject to the sales tax imposed under Part 1 of Division 2 of the Revenue and Taxation Code or (ii) amounts that are exempt from the Hotel Tax pursuant to applicable law.

(e) Procedure for Payment and Collection of Tax on Transient Occupancy of Hotel Rooms. Every occupant of a guest room in a hotel in the City and County of San Francisco shall pay, and every operator shall collect, report upon and remit to the Tax Collector, the Hotel Tax on all of the consideration paid for the room, as well as all of the consideration paid for any and all furnishings, services and accommodations accompanying the use and possession of the room, as described in subsection (d), above. The occupant shall pay the Hotel Tax on the rent for the room and such furnishings, services and accommodations, which the operator shall collect, report upon and remit to the Tax Collector, regardless of whether the charges for such furnishings, services and accommodations are stated, billed, paid or received separately from other charges for the occupancy of the room. This procedure shall apply to all operators and occupants irrespective of any past practice or procedure of the operator or occupant regarding the payment, collection, remittance and reporting of the Hotel Tax.

(f) Application. Pursuant to the authority granted under Business and Tax Regulations Code §6.16-1, all operators must comply with this regulation starting November 1, 2003, or as soon thereafter as reasonably practicable, but no later than December 1, 2003.

(g) Guidelines. Pursuant to the authority referenced in paragraph (a), the Tax Collector may promulgate guidelines from time to time regarding the application of this regulation to specific furnishings, services and accommodations accompanying the use and possession of hotel guest rooms.