

# Council Business Meeting

March 19, 2019

Agenda Item	Allocation of Transient Occupancy Tax – Tourism Restricted	
From	Mark Welch	Administrative Services Director
Contact	<a href="mailto:Mark.welch@ashland.or.us">Mark.welch@ashland.or.us</a>	

## **SUMMARY**

The City of Ashland allocates Transient Occupancy Tax (TOT) revenue by resolution each biennium to meet State legal requirements (Oregon Revised Statutes 818) as well as for ongoing implementation of local City Council goals and objectives. The proposed resolution for the 2019-21 biennium includes only the allocation of the tourism restricted component of the tax. The unrestricted component, which provides funding for the City's economic development program and the majority of the funding for the small grants (econ, cultural, sustainability) will be allocated in a future resolution pending the outcome of the 2019-21 biennial budget process.

## **POLICIES, PLANS & GOALS SUPPORTED**

2.1 Engage community in conversation about core services, desired service levels and funding mechanisms.

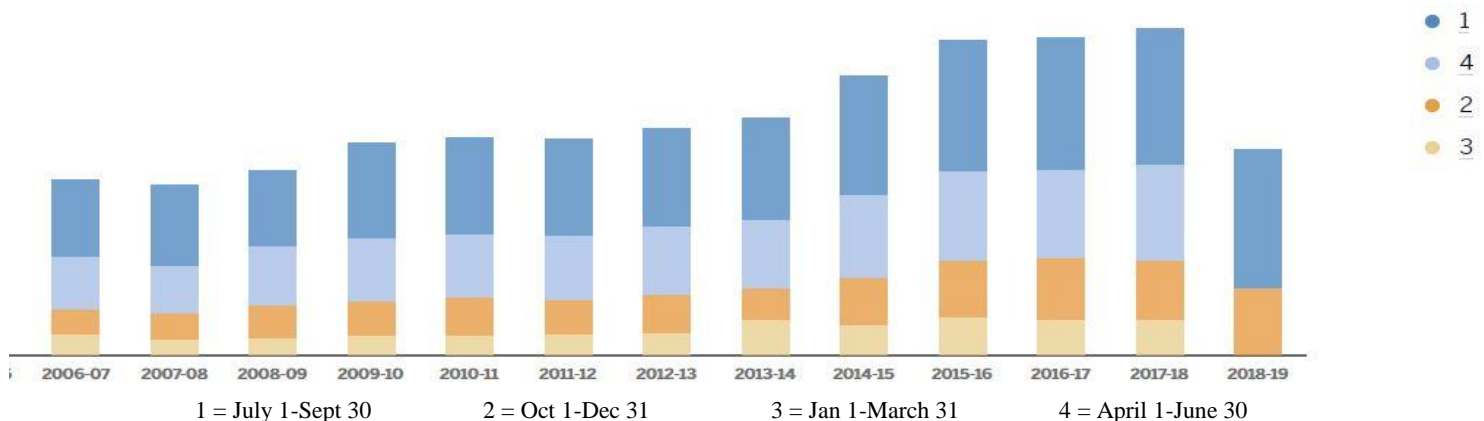
## **PREVIOUS COUNCIL ACTION**

The TOT rate was increased from nine percent (9%) to ten percent (10%) in June of 2018 as one component of a revenue package to fund additional Police Officers, with thirty percent (30%) of the one percent increase being unrestricted and available to fund an additional Police Officer in the general fund. The remaining seventy percent (70%) is required to be restricted for tourism eligible expenditures consistent with State Law and was reserved by Council for future downtown parking supply.

Prior actions from Council set both the restricted and unrestricted components of the tax prior to each City budget cycle.

## **BACKGROUND AND ADDITIONAL INFORMATION**

Total estimated revenue for TOT receipts is anticipated to increase slightly over the previous period. However, when the revenue is normalized to account for the increase in the tax rate from 9 percent to 10 percent, the estimate is nearly flat compared to the prior period. Staff has proposed this estimate based on recent quarterly tax returns and other tourism data points.



The resulting allocation indicates a proportional decrease to the recipient categories that includes the Visitor and Convention Bureau (VCB) operated by the Chamber of Commerce, Public Art funding, Economic, Cultural and Sustainability Grants and ORS eligible tourism capital projects.

The tourism restricted component of the rate increase from 9 percent to 10 percent was allocated by Council for the creation of a Downtown Parking Supply fund, which is estimated at \$245,727, and was removed from the tourism allocation calculation prior to the allocation to the other categories noted above.

### **FISCAL IMPACTS**

TOT funds are restricted by state statute to assist in funding tourism promotion in Ashland. The proposed resolution reduces the allocation of funds for tourism promotion for the Visitor and Convention Bureau, which could negatively impact future tourism related business sustainability in Ashland. To a lesser degree, the proposed resolution reducing the tourism component of the small grants program could impact the ability of the small tourism grantee to support the tourism component of the local economy.

### **STAFF RECOMMENDATION**

The proposed resolution maintains the historical methodology on the allocation among the recipient categories and is available for Council review and modification. Should Council have an interest in adjusting the proposed allocation, the only legal constraint is that the total tourism restricted estimate of \$949,884 must meet the definitions and restrictions set forth in state statute. Should Council be interested in maintaining the VCB allocation consistent with the previous fiscal year allocation, staff has developed potential motions 2, 3 and 4 as potential alternation to the allocation table to achieve that objective.

**Motion 2** re-allocates funds equally from the Future Parking Supply and City Tourism eligible Capital Projects to restore the VCB allocation to FY19 levels.

**Motion 3** re-allocates funds to VCB from only the Future Parking Supply

**Motion 4** re-allocates funds to VCB from only the City Tourism eligible Capital Projects.

### **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

- 1) I move to approve a resolution allocating the tourism restricted revenues of the Transient Occupancy Tax as presented
- 2) I move to approve a resolution allocating the tourism restricted revenues of the Transient Occupancy Tax with the following modifications:
  - a. Add \$52,010 to the Visitor and Convention Bureau allocation (maintain funding from FY19 level)
  - b. Reduce Future Parking Supply and City Tourism eligible Capital Projects by \$26,005 each
- 3) I move to approve a resolution allocating the tourism restricted revenues of the Transient Occupancy Tax with the following modifications:
  - a. Add \$52,010 to the Visitor and Convention Bureau allocation (maintain funding from FY19 level)
  - b. Reduce Future Parking Supply by \$52,010
- 4) I move to approve a resolution allocating the tourism restricted revenues of the Transient Occupancy Tax with the following modifications:
  - a. Add \$52,010 to the Visitor and Convention Bureau allocation (maintain funding from FY19 level)
  - b. Reduce City Tourism eligible Capital Projects by \$52,010
- 5) I move to defer the allocation of tourism restricted revenues of the Transient Occupancy Tax until the completion of the 2019-21 biennial budget process.

### **REFERENCES & ATTACHMENTS**

Attachment 1: Draft TOT Allocation Resolution

Attachment 2: Resolution 2018-23 – Approved TOT Allocation for FY17-19

Attachment 3: Oregon Revised Statutes (ORS) Chapter 320 Transient Occupancy Taxes

## RESOLUTION NO. 2019-

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHLAND ALLOCATING ANTICIPATED TRANSIENT OCCUPANCY TAX TOURISM RESTRICTED REVENUES FOR THE BIENNIUM 2019-2021 BUDGET AND REPEALING RESOLUTION 2018-33.**

#### **RECITALS:**

- A. That the City of Ashland collects a Transient Occupancy Tax (TOT) pursuant to Ashland Municipal Code 4.24. Revenues from the Transient Occupancy Tax are used to fund general governmental expenses, economic development, tourism promotion and related infrastructure and the City's Economic, Cultural, and Sustainability Grant program.
- B. The City of Ashland has determined that as of July 1, 2003, \$186,657 or 14.23 percent of the City of Ashland's total Hotel/Motel tax revenues were expended on tourism promotion, as defined in Chapter 818 of the 2003 Oregon Laws.
- C. Chapter 818 requires 70 percent of any increased TOT revenue generated by tax rate increases after 2003 be committed to tourism promotion.
- D. Appropriations for tourism promotion are based upon the following percentages established in FY 2009-10 when the rate was increased from 7 percent - 9 percent:
- A minimum of 14.23 percent of the estimated TOT revenue generated by the original 7 percent tax rate for tourism promotion per Chapter 818 and,
  - A minimum of 70 percent of the estimated TOT revenue generated by additional tax rates approved by Council on June 3, 2008 consistent with Chapter 818.
- E. Appropriations for the Tax Rate increase of one percent on August 1, 2018 are based on projected collections and allocated as follows:
- 70 percent of the estimated TOT revenue generated by the additional 1 percent tax rate for long term parking supply pursuant Chapter 818 and,
  - 30 percent of the estimated TOT revenue generated by additional 1 percent tax rate.

#### **THE CITY OF ASHLAND RESOLVES AS FOLLOWS:**

##### **SECTION 1.**

For the Biennium 2019-2021, the City of Ashland expects to budget an estimated **\$6,552,738** for Transient Occupancy Tax collections. The annual allocation between tourism and general governmental operations is as follows:

TOT Anticipated Revenues	% of Total	FY 2019-20	FY 2020-21
Tourism Restricted (ORS 818)	29%	949,884	949,884
General Government Operations	71%	2,326,485	2,326,485
<b>TOTALS</b>	<b>100%</b>	<b>\$3,276,369</b>	<b>\$3,276,369</b>

**Tourism Allocation**

Tourism restricted funds will be allocated as follows:

<b>Tourism Restricted TOT Allocation</b>	<b>% of Tourism</b>	<b>2019-2020</b>	<b>2020-2021</b>
<b>TOTAL Tourism TOT</b>		<b>949,884</b>	<b>949,884</b>
Long Term Parking Supply (70% of 1% increase in 2018)		245,727	245,727
<b>Remaining Tourism TOT</b>		<b>704,157</b>	<b>704,157</b>
Visitor & Convention Bureau – Chamber of Commerce	56%	394,328	394,328
Oregon Shakespeare Festival – (13.5%)	Fixed	110,000	110,000
City Economic, Cultural, and Sustainability Grants	10%	70,416	70,416
Public Art	3%	21,125	21,125
Other City Tourism eligible Capital Projects	Remainder	108,288	108,288
<b>TOTAL RESTRICTED TOT ALLOCATION</b>		<b>\$949,884</b>	<b>\$949,884</b>

If actual tourism specific TOT revenue collections exceed the above allocations or if actual, qualifying expenditures in the year are less than the appropriated amount, the additional or unused amount(s) will be reserved for qualifying future Tourism related expenditures as determined by Council.

**Non Tourism Allocation**

The remaining estimated TOT revenue allocated for general government operations will be 100 percent appropriated through the budget process. Unrestricted TOT revenue unspent in a budget year becomes part of the General Fund unrestricted ending fund balance unless otherwise determined by City Council.

<b>Unrestricted TOT Allocation</b>	<b>2019-2020</b>	<b>2020-2021</b>
<b>TOTALS</b>	<b>\$2,133,571</b>	<b>\$2,133,571</b>

SECTION 2. Resolution 2018-23 is repealed upon passage of this resolution.

SECTION 3. This resolution was duly PASSED and ADOPTED this \_\_\_\_\_, day of \_\_\_\_\_, 2019 and takes effect upon signing by the Mayor.

\_\_\_\_\_  
Melissa Huhtala, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2019.

Reviewed as to form:

\_\_\_\_\_  
John Stromberg, Mayor

\_\_\_\_\_  
David Lohman, City Attorney



## RESOLUTION NO. 2018-23

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHLAND ALLOCATING ANTICIPATED REVENUES FROM THE TRANSIENT OCCUPANCY TAX FOR THE BIENNIUM 2017-2019 BUDGET AND REPEALING RESOLUTION 2017-03.

#### RECITALS:

- A. That the City of Ashland collects a Transient Occupancy Tax (TOT) pursuant to Ashland Municipal Code 4.24. Revenues from the Transient Occupancy Tax are used to fund general governmental expenses, economic development, tourism promotion and related infrastructure and the City's Economic, Cultural, and Sustainability Grant program.
- B. The City of Ashland has determined that as of July 1, 2003, \$186,657 or 14.23% of the City of Ashland's total Hotel/Motel tax revenues were expended on tourism promotion, as defined in Chapter 818 of the 2003 Oregon Laws.
- C. Chapter 818 requires 70% of any increased TOT revenue generated by tax rate increases after 2003 be committed to tourism promotion.
- D. Appropriations for tourism promotion are based upon the following percentages established in FY 2009-10 when the rate was increased from 7%-9%:
- A minimum of 14.23% of the estimated TOT revenue generated by the original 7% tax rate for tourism promotion per Chapter 818 and,
  - A minimum of 70% of the estimated TOT revenue generated by additional tax rates approved by Council on June 3, 2008 consistent with Chapter 818.
- E. Appropriations for the Tax Rate increase of one percent on August 1, 2018 are based on projected collections and allocated as follows:
- 70% of the estimated TOT revenue generated by the additional 1% tax rate for long term parking supply pursuant Chapter 818 and,
  - 30% of the estimated TOT revenue generated by additional 1% tax rate.

#### THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

#### SECTION 1.

For the Biennium 2017-2019, the City of Ashland expects to budget an estimated \$5,875,900 for Transient Occupancy Tax collections. The annual allocation between tourism and general governmental operations is as follows:

TOT Anticipated Revenues	% of Total	FY 2017-18	FY 2018-19
Tourism	23.88%	770,070	797,033
General Government Operations	65.67%	2,117,330	2,191,467
Increased TOT 1 percent (from 9 to 10 percent)	10.45%	0	348,658
<b>TOTALS</b>	<b>100%</b>	<b>\$2,887,400</b>	<b>\$3,337,158</b>



## Tourism Portion

Tourism restricted funds will be allocated as follows:

<b>Tourism Restricted TOT Allocation</b>	<b>% of Tourism</b>	<b>2017-2018</b>	<b>2018-2019</b>
Chamber of Commerce – Visitor & Convention Bureau	56%	431,239	446,338
Oregon Shakespeare Festival – (14.3% & 13.8%)	Fixed	110,000	110,000
City Economic, Cultural, and Sustainability Grants	10%	77,007	79,703
Public Art	3%	23,102	23,911
Other City Tourism eligible Capital Projects	Remainder	128,722	137,080
Long Term Parking Supply	70% of Increased TOT	0	244,060
<b>TOTALS</b>		<b>\$770,070</b>	<b>\$797,033</b>

If actual tourism specific TOT revenue collections exceed the above allocations or if actual, qualifying expenditures in the year are less than the appropriated amount, the additional or unused amount(s) will be reserved for qualifying future Tourism related expenditures as determined by Council.

## Non Tourism Portion


The remaining estimated TOT revenue allocated for general government operations will be 100% appropriated through the budget process to fund the Economic Development program and Economic, Cultural, and Sustainability Grant program as specified below and other uses as directed by Council.

<b>Unrestricted TOT Allocation</b>	<b>% of Unrestricted</b>	<b>2017-2018</b>	<b>2018-2019</b>
City Economic Development Program	8%	175,000	185,000
City Economic, Cultural, and Sustainability Grants	7%	150,000	150,000
General Fund – General Governmental Operations	85%	1,792,330	1,856,467
General Fund-Public Safety Operations	30% of Increased TOT	0	104,598
<b>TOTALS</b>		<b>\$2,117,330</b>	<b>\$2,296,065</b>

Unrestricted TOT revenue unspent in a budget year becomes part of the General Fund unrestricted ending fund balance unless otherwise determined by City Council.

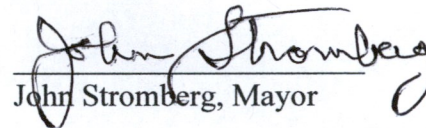
SECTION 2. Resolution 2017-03 is repealed upon passage of this resolution.

SECTION 3. This resolution was duly PASSED and ADOPTED this 19<sup>th</sup>, day of June, 2018 and takes effect upon signing by the Mayor.

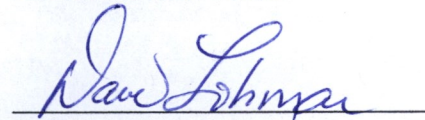
  
Melissa Huhtala, City Recorder



SIGNED and APPROVED this 19<sup>th</sup> day of June, 2018.

  
John Stromberg, Mayor

Reviewed as to form:

  
David Lohman, City Attorney

## TRANSIENT LODGING TAXES

### (Definitions)

#### **320.300 Definitions for ORS 320.300 to 320.350.** As used in ORS 320.300 to 320.350:

(1) “Collection reimbursement charge” means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.

(2) “Conference center” means a facility that:

(a) Is owned or partially owned by a unit of local government, a governmental agency or a nonprofit organization; and

(b) Meets the current membership criteria of the International Association of Conference Centers.

(3) “Convention center” means a new or improved facility that:

(a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including without limitation banquet facilities, loading areas and lobby and registration areas;

(b) Has a total meeting room and ballroom space between one-third and one-half of the total size of the center’s exhibition space;

(c) Generates a majority of its business income from tourists;

(d) Has a room-block relationship with the local lodging industry; and

(e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

(4) “Local transient lodging tax” means a tax imposed by a unit of local government on the sale, service or furnishing of transient lodging.

(5) “State transient lodging tax” means the tax imposed under ORS 320.305.

(6) “Tourism” means economic activity resulting from tourists.

(7) “Tourism promotion” means any of the following activities:

(a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;

(b) Conducting strategic planning and research necessary to stimulate future tourism development;

(c) Operating tourism promotion agencies; and

(d) Marketing special events and festivals designed to attract tourists.

(8) “Tourism promotion agency” includes:

(a) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.

(b) A nonprofit entity that manages tourism-related economic development plans, programs and projects.

(c) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.

(9) “Tourism-related facility” means:

(a) A conference center, convention center or visitor information center; and

(b) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.



(10) “Tourist” means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person’s community of residence, and that trip:

- (a) Requires the person to travel more than 50 miles from the community of residence; or
- (b) Includes an overnight stay.

(11) “Transient lodging” means:

- (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
- (b) Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or
- (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy.

(12) “Transient lodging intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.

(13) “Transient lodging provider” means a person that furnishes transient lodging.

(14) “Transient lodging tax collector” means a transient lodging provider or a transient lodging intermediary.

(15) “Unit of local government” has the meaning given that term in ORS 190.003.

(16) “Visitor information center” means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists. [Formerly 305.824; 2005 c.187 §1; 2013 c.610 §3]

**Note:** Sections 2 and 14, chapter 610, Oregon Laws 2013, provide:

**Sec. 2.** The Legislative Assembly declares that it is the purpose of the amendments to ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345, 320.347 and 320.350 by sections 3 to 12 of this 2013 Act to enhance the administration and enforcement of existing law governing transient lodging taxes in this state. [2013 c.610 §2]

**Sec. 14.** Section 2 of this 2013 Act is repealed on January 2, 2023. [2013 c.610 §14]

**320.302 Certain terms definable by rule.** The Department of Revenue may by rule define “dwelling unit,” “nonprofit facility,” “temporary human occupancy” and other terms for purposes of ORS 320.300 to 320.350. [2005 c.187 §5]

(State Transient Lodging Tax)

**320.305 Rate and computation of tax; total retail price; collector reimbursement.** (1)(a) A tax of 1.8 percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.

(b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector’s business.

(c) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging.

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section. [2003 c.818 §2; 2013 c.610 §4; 2016 c.102 §1]

**Note:** The amendments to 320.305 by section 3, chapter 102, Oregon Laws 2016, apply to consideration rendered on or after July 1, 2020, for the sale, service or furnishing of transient lodging. See section 4, chapter 102, Oregon Laws 2016. The text that applies to consideration rendered on or after July 1, 2020, for the sale, service or furnishing of transient lodging, is set forth for the user's convenience.

**320.305.** (1)(a) A tax of 1.5 percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.

(b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

(c) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging.

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section.

**320.308 Exemptions.** The following are exempt from the state transient lodging tax:

(1) A dwelling unit in a hospital, health care facility, long term care facility or any other residential facility that is licensed, registered or certified by the Department of Human Services or the Oregon Health Authority;

(2) A dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;

(3) A dwelling unit that is used by members of the general public for temporary human occupancy for fewer than 30 days per year;

(4) A dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;

(5) A dwelling unit at a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility; or

(6) A dwelling unit that is leased or otherwise occupied by the same person for a consecutive period of 30 days or more during the year. The requirements of this subsection are satisfied even if the physical dwelling unit changes during the consecutive period, if:

(a) All dwelling units occupied are within the same facility; and

(b) The person paying consideration for the transient lodging is the same person throughout the consecutive period. [2005 c.187 §3; 2009 c.595 §206]

**Note:** 320.308 was added to and made a part of 320.300 to 320.350 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**320.310 Records and statements.** Every transient lodging tax collector shall keep records, render statements and comply with rules adopted by the Department of Revenue with respect to the tax imposed under ORS 320.305. The records and statements required by this section must be sufficient to show whether there is a tax liability under ORS 320.305. [2003 c.818 §3; 2013 c.610 §5]

**320.315 Due date and form of returns; payment of tax.** (1) Every transient lodging tax collector is responsible for collecting the tax imposed under ORS 320.305 and shall file a return with the Department of Revenue, on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the quarter. The department shall prescribe the form of the return required by this section. The rules of the department shall require that returns be made under penalties for false swearing.

(2) When a return is required under subsection (1) of this section, the transient lodging tax collector required to make the return shall remit the tax due to the department at the time fixed for filing the return. [2003 c.818 §4; 2013 c.610 §6]

**320.320 Refunds.** If the amount paid by the transient lodging tax collector to the Department of Revenue under ORS 320.315 exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate established under ORS 305.220 during a period beginning 45 days after the later of the due date of the return to which the excess relates or the date the excess was paid, and ending on the date the refund is paid. A refund may not be made to a transient lodging tax collector that fails to claim the refund within two years after the due date for filing the return to which the claim for refund relates. [2003 c.818 §5; 2013 c.610 §7; 2017 c.278 §12]

**320.325 Amounts held in trust; enforcement.** (1) Every transient lodging tax collector is deemed to hold the amount of state transient lodging taxes collected in trust for the State of Oregon and for payment to the Department of Revenue in the manner and at the time provided under ORS 320.315.

(2) At any time the transient lodging tax collector fails to remit any amount of state transient lodging taxes deemed to be held in trust for the State of Oregon, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued on the delinquent amount. The warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as warrants for the collection of delinquent income taxes. [2003 c.818 §6; 2013 c.610 §8]

**320.330 Applicability of other provisions of tax law.** Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 governing the audit and examination of reports and returns, confidentiality of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and related procedures, apply to ORS 320.305 to 320.340 as if the state transient lodging tax were a tax imposed upon or measured by net income. The provisions apply



to the taxpayer liable for the tax and to the transient lodging tax collector required to collect the tax. Any amount collected and required to be remitted to the Department of Revenue is considered a tax upon the transient lodging tax collector required to collect the tax and the transient lodging tax collector is considered a taxpayer. [2003 c.818 §7; 2013 c.610 §9]

**320.332 Disclosure of confidential information by Department of Revenue and local governments; rules.** (1) As used in this section, “confidential information” means information contained in state transient lodging tax returns required under ORS 320.315, any information in state transient lodging tax reports from which information about a particular taxpayer may be determined and any other information or reports exchanged by the Department of Revenue and a unit of local government related to transient lodging taxpayers that is confidential pursuant to the confidentiality provisions of ORS 320.330.

(2)(a) Notwithstanding ORS 314.835 and the confidentiality provisions of ORS 320.330 and except as provided in paragraph (d) of this subsection, upon written request, the Department of Revenue shall disclose information received under ORS 320.305 to 320.340, or any reports or other form of analysis based on the information, to a unit of local government for purposes of local transient lodging taxes imposed or administered by the unit of local government.

(b) Before making a request under paragraph (a) of this subsection, the unit of local government must provide written notice, to the officers, employees and agents of the unit of local government who will receive the confidential information, of the provisions of ORS 314.835 and 314.991 (2) relating to the penalties for unlawful disclosure of confidential information.

(c) Before disclosing confidential information requested under this subsection to officers, employees and agents, the unit of local government must receive from the officers, employees and agents certification of receipt of the notice required under paragraph (b) of this subsection.

(d) The department may refuse to comply with a request if compliance would be unduly burdensome or expensive.

(3)(a) Notwithstanding any other provision of law and except as provided in paragraph (b) of this subsection, upon written request, a unit of local government shall disclose information received under ORS 320.345 to 320.350, or any reports or other form of analysis based on the information, to the Department of Revenue for purposes of the administration of the state transient lodging tax by the department.

(b) The unit of local government may refuse to comply with a request if compliance would be unduly burdensome or expensive.

(4)(a) A unit of local government may disclose confidential information only to qualified personnel for management audits, financial audits or research conducted by any accredited university, the League of Oregon Cities or the Association of Oregon Counties.

(b) Personnel who receive information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the personnel obtained the information.

(c) For audits or research, personnel who receive confidential information may not directly or indirectly disclose in a report or any other manner the identity of a taxpayer, including a taxpayer identification number or Social Security number.

(5) Information requested under this section is not required to be provided more frequently than once per calendar quarter.

(6) A request made under subsection (2) or (3) of this section remains in effect until the unit of local government that made the request or the department, respectively, requests in writing to discontinue receiving the information.

(7) The Department of Revenue, after consultation with local governments, shall adopt rules establishing the process for making requests under this section, including, but not limited to, forms and timing, information that may be disclosed and the notice and certification requirements under subsection (2)(b) and (c) of this section. [2017 c.89 §2]

**Note:** 320.332 was added to and made a part of 320.300 to 320.350 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

**320.335 Distribution of moneys received.** All moneys received by the Department of Revenue pursuant to ORS 320.305 to 320.340, and interest thereon, shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of refunds:

(1) Moneys necessary to reimburse the Department of Revenue for the actual costs incurred by the department in administering the state transient lodging tax, not to exceed two percent of state transient lodging tax collections, are continuously appropriated to the department; and

(2) The balance of the moneys received shall be transferred to the account of the Oregon Tourism Commission established under ORS 284.131. The moneys transferred under this subsection are continuously appropriated to the Oregon Tourism Commission for the purposes set forth in ORS 284.131. [2003 c.818 §8]

**320.340 Exemption from public records law.** (1) Public records of moneys received by the Department of Revenue pursuant to ORS 320.305 to 320.340 are exempt from disclosure under ORS 192.311 to 192.478. Nothing in this section shall limit the use that can be made of such information for regulatory purposes or its use and admissibility in any enforcement proceedings.

(2) If a conflict is found to exist between subsection (1) of this section and ORS 314.835, ORS 314.835 controls. [2003 c.818 §8a]

(Local Transient Lodging Taxes)

**320.345 Collector reimbursement charges.** (1) On or after January 1, 2001, a unit of local government that imposed a local transient lodging tax on December 31, 2000, and allowed a transient lodging tax collector to retain a collection reimbursement charge on that tax, may not decrease the rate of the collection reimbursement charge.

(2) A unit of local government that imposes a new local transient lodging tax on or after January 1, 2001, shall allow a transient lodging tax collector to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues. The unit of local government may increase the rate of the collection reimbursement charge.

(3) A unit of local government that increases a local transient lodging tax on or after January 1, 2001, shall allow a transient lodging tax collector to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues, including revenues that would have been collected without the increase. The unit of local government may increase the rate of the collection reimbursement charge.

(4) A unit of local government may not offset the loss of local transient lodging tax revenues caused by collection reimbursement charges allowed under this section by:

(a) Increasing the rate of the local transient lodging tax;

(b) Decreasing the percentage of total local transient lodging tax revenues used to fund tourism promotion or tourism-related facilities; or

(c) Increasing or imposing a new fee solely on transient lodging tax collectors or tourism promotion agencies that are funded by the local transient lodging tax. [2003 c.818 §10; 2013 c.610 §11]

**320.347 Alternative remittance of receipts from tax on camping and recreational vehicle spaces.** (1) Except as provided in this section, a unit of local government that imposes a tax on the rental of privately owned camping or recreational vehicle spaces shall, regardless of a schedule imposed by the unit of local government for remitting tax receipts, allow a transient lodging tax collector to hold the tax collected until the amount of money held equals or exceeds \$100.

(2) Once the amount held by a transient lodging tax collector equals or exceeds \$100, or by December 31 of each year if the \$100 threshold is not met, the transient lodging tax collector shall remit the tax collected at the next following reporting period established by the unit of local government for payment of the tax.

(3) A unit of local government may not assess any penalty or interest against a transient lodging tax collector that withholds payments pursuant to this section. [2005 c.610 §4; 2013 c.610 §12]

**320.350 Tax moratorium; exceptions; uses of revenues.** (1) A unit of local government that did not impose a local transient lodging tax on July 1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition of the local transient lodging tax was approved on or before July 1, 2003.

(2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July 1, 2003.

(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.

(4) Notwithstanding subsections (1) and (2) of this section, a unit of local government that is financing debt with local transient lodging tax revenues on November 26, 2003, must continue to finance the debt until the retirement of the debt, including any refinancing of that debt. If the tax is not otherwise permitted under subsection (1) or (2) of this section, at the time of the debt retirement:

(a) The local transient lodging tax revenue that financed the debt shall be used as provided in subsection (5) of this section; or

(b) The unit of local government shall thereafter eliminate the new tax or increase in tax otherwise described in subsection (1) or (2) of this section.



(5) Subsections (1) and (2) of this section do not apply to a new or increased local transient lodging tax if all of the net revenue from the new or increased tax, following reductions attributed to collection reimbursement charges, is used consistently with subsection (6) of this section to:

- (a) Fund tourism promotion or tourism-related facilities;
- (b) Fund city or county services; or
- (c) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt, provided that:

- (A) The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

- (B) Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

(6) At least 70 percent of net revenue from a new or increased local transient lodging tax shall be used for the purposes described in subsection (5)(a) or (c) of this section. No more than 30 percent of net revenue from a new or increased local transient lodging tax may be used for the purpose described in subsection (5)(b) of this section.

(7)(a)(A) A local transient lodging tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

(b) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging. [2003 c.818 §11; 2013 c.610 §10]