

CARSON CITY

Convention & Visitors' Bureau

To: Lodging Property Owner(s) or Manager(s)
From: Candace Duncan, Executive Director
Molly Bundy-Toral, Accountant
Date: May 2005
Subject: Enclosed "Carson City Convention & Visitors' Bureau's Room Tax Policies and Procedures Manual"

The owners and managers of all lodging properties are responsible for being aware of and familiar with all the information contained within the enclosed manual.

However, there are several sections we want you to especially draw your attention to because of their importance:

Section:

- 1.5 "Gross Rental Revenue" (Gross Receipts) defined.
- 3.1 Tax Rate
- 3.2 Notice to Guest
- 3.3 Taxes are Applicable to All Rental Charges.
- 3.4 Separation of Tax from Room Charge.
- 3.5 Receipt for Every Guest Room Rented (NRS 651.040)
- 3.6 The Operator Owes the Tax.
- 3.7 Collection from the Transient Guest.
- 3.8 Taxpayer Assistance.
- 3.10 Assignment of Tax Proceeds
- 4.1 Due Date
- 4.2 Who Must File a Return
- 4.4 Occupancy Section of the Tax Return
- 6.1-6.4 Exemptions from Room tax.
- 7.1-7.2 Package Programs
- 8.1-8.8 Audit of Operator's Transient Lodging Tax Records (especially 8.3 Required Records)

If for some reason, the enclosed manual is misplaced, please call Molly Bundy-Toral, accountant, at the Carson City Convention & Visitors' Bureau for a replacement. **IT IS VERY IMPORTANT THAT THE OWNERS, MANAGERS AND CLERKS OF ALL LODGING PROPERTIES HAVE ACCESS TO THE INFORMATION CONTAINED IN THE ENCLOSED MANUAL AT ALL TIMES.**

There is a room tax sign enclosed for all the lodging properties to post immediately in the lobby.

CARSON CITY CONVENTION & VISITORS' BUREAU
ROOM TAX POLICIES AND PROCEDURES

Publication Date: May 2005

CARSON CITY

Convention & Visitors' Bureau

TO: CCCVB Board Members

FROM: Candy Duncan, Executive Director
Molly Bundy-Toral, Accountant

DATE: May 2005

SUBJECT: Carson City Convention & Visitors' Bureau's Room Tax Policies and Procedures Manual*

Enclosed is the manual for the room tax policies and procedures for Carson City. The compilation of this manual has been a lot of work and has taken considerable time since this is the first manual that has been produced for Carson City.

It is important that you know the process that has been involved in the compilation so that you are aware of the many sources we consulted.

First of all, Molly has done a number of audits over the past years and some of her experiences helped her to understand the difficulties and the concerns of the owners and managers. This knowledge has been useful in the compiling of this manual. In addition, Molly has spoken at considerable length to the chief auditor of room tax at RSCVA and the room tax auditor for Douglas County.

In addition, we were aided by the "Douglas County Room Tax Policies and Procedures Manual" and the "Reno-Sparks Convention & Visitors Authority Transient Lodging Tax Regulations". We chose what we considered the most controversial issues out of these manuals. In addition, we also looked at the Carson City Municipal Code on room tax and took into consideration our experiences with questions and concerns of the lodging properties in Carson City. With Sean Sever and Dwight Millard, who are the two representatives from lodging properties on our board, we reviewed these "controversial" areas and decisions were made.

Then we mailed the newly compiled manual on the room tax policies and procedures for Carson City to Sean, Dwight and our attorney Charlie Cockerill for their review. Both the District Attorney's Office and the City Manager, Linda Ritter, have reviewed the manual. In addition the manual was forwarded to the City's Treasurer, Al Kramer, who had some comments and questions which we have followed up on.

After Board's approval, the manual will be mailed to all managers and owners of transient lodging properties.

*This manual was approved by the CCCVB Board on May 9, 2005.

**CARSON CITY CONVENTION & VISITORS' BUREAU
ROOM TAX POLICIES AND PROCEDURES**

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I. DEFINITIONS

1.1 Short Title. These regulations are known and may be cited as the CCCVB Transient Lodging Tax Regulations or Policies & Procedures.

1.2 Applicability and Definitions. Except where the context otherwise requires, the definitions given in 1.3 to 1.13 inclusive, govern the constructions of these regulations.

1.3 Appeal Committee. The Appeal Committee consists of the Executive Director of the CCCVB and the Business Representative on the CCCVB Board.

1.4 "CCCVB Defined. "CCCVB" means the Carson City Convention & Visitors Bureau.

1.5 "Gross Rental Revenue (Gross Receipts)" defined. Includes the total amount of the rental price for transient lodging posted as income for the reporting period and includes, without limitation, the actual rent payments or consideration received by a Licensee in money, credits, property or other consideration valued in money for lodgings, any forfeited deposits received by the Licensees from paying guests, exchange fees and commissions, and all other revenues and fees associated with the rental including without limitation, room cleaning or maid service, telephone and linen service, power and sewer hook-up (in the case of RV's), contract janitorial services, mandatory luggage services, utility surcharges, linen service, credit card surcharges, and additional charges for extra guests and pets, or any mandatory fee associated with the rental imposed on an occupant. Gross receipts includes all the rental income including any exemptions. Frequent audits may be performed on properties that do not fully complete the lodging tax returns (including occupancy report) in order to insure that the taxes reported are in conformity with what actually should be owed. If more audits are required due to lack of full reporting, the Licensee may be charged for the extra audit(s).

1.6 "Paying Guest" defined. "Paying Guest" means any "person" (see Section 1.8) who, for rent, or consideration, uses, possesses or has the right to possess any sleeping room/space in transient lodging under any lease, concession, permit, right of access, license, contract or agreement.

1.7 "Licensee" defined. "Licensee" means the person who is the proprietor of a transient lodging business, whether in the capacity of owner, lessee, sub-lessee, mortgagee, licensee, or any other capacity. Where the Licensee performs his or her function through a managing agent of any type or character other than an employee, the managing agency shall also be deemed a Licensee for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Other Licensees include on-line discount booking agencies and exchange companies.

1.8 "Person" defined. "Person" means a corporation, firm, partnership, association or individual, and includes an executor, administrator trustee, receiver or other representative appointed according to law.

1.9 "Shall" defined. "Shall" means must, mandatory, or required.

1.10 "Tax Administrator" defined "Tax Administrator" means the Executive Director of the CCCVB or such other person(s) designated by the Executive Director to administer the enforcement and collection of transient lodging tax.

1.11 "Transient Lodging Tax" defined. "Transient Lodging Tax" means the tax on transient lodging levied for the purposes of NRS244.A.597 to NRS 244A.655, inclusive and as amended from time to time, 1999 Statutes of Nevada Chapter 432, 1991 Statutes of Nevada Chapter 19 and such other provisions as the State of Nevada and City of Carson may adopt from time to time.

1.12 "Transient Lodging" (rental business) defined. "Transient Lodging" means, **but is not limited to** any facility, structure, or portion of any structure which is occupied or intended or designed for occupancy by transient guests who pay rent or other consideration for dwelling, lodging or sleeping purposes, and includes any hotel, resort hotel, motel, motor court, motor lodge, bed and breakfast, lodging house, rooming house, resident hotel and motel, guest house, tourist camp, resort and "dude" ranch, cabin, condominium time-share project, vacation home, apartment house, recreational vehicle park/campground, guest ranch or other similar structure or facility, or portion thereof having four or more rooms for rental.

2. BUSINESS LICENSE FOR TRANSIENT LODGING FACILITY

2.1 Operation of Transient Lodging Without a Business License is Unlawful. It is unlawful for any person or other entity to engage in a transient lodging business located within the boundaries of the City of Carson without first obtaining a license from the Treasurer's Office - The Business License Division. (CCMC 4.08.090-1) Business licenses can be obtained from the Carson City Treasurer - Business License Division located at 201 N. Carson Street, Suite 5, Carson City, NV 89701. First time applicants can request an application in person, by mail, or telephone (775) 887-2092 (1506). Request a Carson City Business License Application.

2.2 Required Information. Each license applicant is required to furnish the following information:

- a. The trade or business name, physical address, mailing address, telephone number of the transient lodging business. (Will need to indicate if this is a new business or a change in ownership.)
- c. The date the business is starting or did start in Carson City.
- d. Fictitious Firm Name of business if applicable.
- e. The square footage of the business, number of employees (including owners), and number of rental units (ex. apartments, motels, etc.)
- f. List of authorized signers on behalf of the business.
- g. Provide information regarding zoning, outdoor signage, commercial vehicles, in addition to listing any chemicals or hazardous materials that may

be used for the business.

2.3 Licensing Period and fees. All business licenses expire on December 31. Business license and health fees for new licenses are pro-rated until the end of the year. License renewal invoices are sent out each December. Per 4.04.072 all business license fees are delinquent if not paid on or before January 15th of each year. A twenty-five percent (25%) late penalty shall be added to the fees due if the fees are paid after that date. In addition to making use of the process described in CCMC 4.04.210 the treasurer may administratively revoke required fees by the due date. The treasurer shall revoke the licenses of all delinquent businesses four (4) weeks after the due date. There is a non-refundable application fee added to the fees. In addition fees for Health Application and Health Permit Fees are added to all motel/hotel, RV parks, etc. licensing fees.

2.4 License Not Transferable. A business license is issued to a given owner at a SPECIFIC LOCATION and is NON-TRANSFERRABLE to a different owner or different location. A new business license application must be filed for any changes.

3. TRANSIENT LODGING TAXES.

3.1 Tax Rate There is a fixed and imposed room tax on every vendor operating a transient lodging business within the City of Carson in the amount of 10%. The legislature or the Carson City Board of Supervisors may change this tax rate at some date in the future.

The 10% is made up of the following taxes:

City of Carson

There is a tax imposed of seven percent (7%) on the gross receipts from transient lodging within the limits of the County. (CCMC.4.08.080 (1))

State of Nevada

There is a tax imposed of one percent (1%) on the gross receipts from transient lodging within the limits of the County. (CCMC.4.08.080 (2); NRS 244.3351(1)(a)).

3/8% of the above 1% is remitted to the State of Nevada to promote tourism.

5/8% of the additional one percent tax are deposited with the CCCVB to be used to advertise the resources of Carson City related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.

City of Carson

There is a tax imposed in addition to the above of two percent (2%) of the gross receipts from transient lodging within the limits of the County to be used primarily for the payment of capital costs, including construction, administration and the

retirement of bonds for the Virginia and Truckee Railroad Reconstruction Project route between Virginia and Carson City, Nevada. (CCMC.4.08.080 (3)).

Local governments and the State of Nevada, not the CCCVB, impose the transient lodging tax. The CCCVB acts as the collection agent and administrator and has no taxing authority of its own. The CCCVB makes every effort to advise Licensees of proposed and actual changes in transient lodging tax laws; however, LICENSEES ARE SOLELY RESPONSIBLE FOR REMAINING INFORMED OF TRANSIENT LODGING TAX CHANGES AS THEY OCCUR.

3.2. Notice to Paying Guest. Each Licensee shall prominently display in each room or suite, or in a lobby at or near the immediate vicinity of the registration desk for the property, a sign that discloses the existence and rate of the transient lodging tax. (CCMC 4.08.120)

3.3. Taxes are Applicable to all Rental Charges. The transient lodging tax applies to gross receipts associated with the rental of transient lodging for the first 28 days of occupancy. Licensees shall not separate gross receipts into separate components such as room rental, TV rental, maid service, etc. All revenues and fees associated with the rental room/unit/space are subject to the 10% lodging tax. See section 1.5 "Gross Receipts".

3.3.1. Taxability of Advance Rental Deposits. Rental deposits that have been paid in advance are not taxable revenues until the paying guest occupies the room. In the event the transient guest does not occupy the room and the deposit is returned, no taxable event has occurred. However, if the deposit is non-refundable, and the paying guest does not occupy the room, the deposit becomes taxable revenue subject to the appropriate tax rate, at the time the Licensee has the right to record the deposit as revenue.

3.3.2. Taxability of Other Deposits and Charges. All deposits charged by a Licensee that are not returned to the paying guest (the guest staying less than 28 days) shall be reported as gross receipts for the period retained.

3.3.3. Taxability of Meeting Rooms. Rooms rented for meetings or other purposes that are also used as sleeping/lodging rooms and separate facilities designated only as meeting rooms are not taxable.

3.3.4. Taxability of Value in Money for Room Occupancy. All forms of payment, other than those exempted under 28 day exemptions (See 6.1) or government exemptions (See 6.2) are subject to transient lodging tax, either in whole or in part. This includes exchange of services with other business entities, points earned through gaming play, and any other trade (i.e. "barter") for goods and services.

3.4. Separation of Tax from Room Charge. If the tax is paid by the paying guest, the amount of the tax shall be displayed separately from the price of the accommodation of room/unit/space on the guest registration card and the folio or receipt; otherwise the tax will be computed on all amounts collected.

3.5. Receipt for Every Paying Guest Room Rented (NRS 651.040). When payment is received, each paying guest shall be given a receipt that includes the name of the property and states the name of the paying guest, the room number, date paid, and a breakdown of what was paid for by the paying guest with the tax separately displayed. Additionally, each Licensee shall keep a registration card for each room that states the type of room/unit/space occupied, the number of persons occupying the room/unit/space, and the rate and tax charged. The Licensee must retain copies to support revenue and exemptions.

3.6. The Licensee owes the tax. The tax imposed may be collected from the paying guest. If so it must be shown as an addition to the charge for the rental of transient lodging. The Licensee providing the transient lodging is liable to the county/city of the tax whether or not it is actually collected from the paying guest.

3.7 Collection from Paying Guest. Licensees may collect the required transient lodging tax from the paying guest, however, such taxes collected shall be held in trust by the Licensee for payment to the CCCVB. Failure to remit transient lodging taxes collected and held in trust may subject Licensees to criminal liability. If the transient lodging tax is collected from the paying guest, the tax must be listed separately on the receipt.

3.8 Taxpayer Assistance. The CCCVB may answer general questions regarding policies, procedures, rules and regulations relating to transient lodging taxes. Licensees seeking specific advice as to their transient lodging tax return or whether specific transactions are exempt from tax should consult their own legal/and or accounting professional. CCCVB personnel are prohibited from assisting with individual Licensee tax return preparation. Licensees or other individuals requiring assistance or having general questions regarding transient lodging taxes may contact the CCCVB at (775) 687-7410.

3.9 Allowance for early reporting. 2% of the gross tax can be deducted from payment if the return is filed on or before the 15th day of the due month.

3.10 Assignment of tax proceeds. All proceeds of the transient lodging tax fixed and imposed by CCMC Chapter 4.08 Room Rental Tax are assigned to the Convention and Visitor's Bureau in accordance with, under the authority of, and for the purposes and to the full extent set forth in Nevada Revised Statutes, Section 269.095 and Sections 244A.597 to 244A.655, inclusive. (CCMC Section 4.08.160)

4. TRANSIENT LODGING TAX RETURNS

4.1 Due Date. All taxes are due and payable on the first day of the month following occupancy or payment. Taxes are considered delinquent if not remitted by the last day of the month following collection. Delinquent returns are subject to the penalties discussed in Section 5. In the event the 1st falls on a Saturday, Sunday or holiday, as defined by Nevada law, returns will be considered delinquent after the next regular working day. (If the 1st falls on a Sunday, returns received after the 2nd will be considered delinquent.)

In the case of returns filed by mail, CCCVB follows the Nevada Administrative Code (NAC 372.790), which states that the postmark affixed by the U.S. Postal Service is to be used in determining timeliness. This means that unless the 1st is on a Saturday, Sunday or holiday, all returns bearing a U.S. Postal Service postmark of the 2nd or later are considered delinquent. Note that dates affixed to envelopes by private postage meters will not take precedence over U.S. Postal Service postmarks.

4.2 Who Must File a Return. All Licensees shall file a monthly transient lodging tax return even if no tax is owed. No exceptions or waivers exist to this filing requirement. Licensees not filing a return will be subject to penalties discussed in Section 5.

4.3 Tax Return Forms. Tax return forms are provided by the CCCVB. The returns are generally mailed by the last day of each month to the mailing address provided on the transient lodging tax license application. Failure to receive transient lodging tax form does not excuse responsibility for timely filing or payment of transient lodging taxes. Additional forms are available from the CCCVB.

4.4 Occupancy Section of the Tax Return. The "occupancy" section of the tax return shall be completed with as much care as the remainder of the tax return. Statistics on occupancy are a major factor in decisions made by businesses as well as by the CCCVB. If the occupancy section of the transient lodging tax return is not completed, the return will be considered improperly filed. Frequent audits may be performed on properties that do not fully complete the lodging tax returns (including occupancy report) in order to insure that the taxes reported are in conformity with what actually should be owed. If more audits are required because of insufficient information supplied, the Licensee may be charged for the extra audit(s).

4.5 Unsigned Returns. If the transient lodging tax return is not signed, the return will be considered improperly filed and will be returned to the Licensee for signature.

4.6 Failure to File a Return. A monthly return shall be timely filed by all Licensees even though no taxes may be due. Failure to file a return shall result in penalties assessed in accordance with Section 5.

5. PENALTIES AND ASSESSMENTS FOR INCORRECT RETURNS AND/OR DELINQUENT OR MISSED PAYMENTS OR FAILURE TO FILE A RETURN

5.1 Penalties and Interest. All returns received after the past due date shall be considered delinquent and assessed a penalty of the greater of \$75.00 or 10% of the taxes due. Delinquent tax and penalties not paid with the following month's return will be subject to interest at 1-1/2% per month. For a return to be considered timely, the return shall be paid in full when filed and checks must be honored by the bank when presented for payment. (CCMC 4.08.180(1)) A \$75.00 administrative fee is charged for a return that has not been filed even though no tax is due.

5.2 Lien(s) Placed Upon Property of Delinquent Licensees. A lien may be placed on the business property of any Licensee who is delinquent. The lien will not be removed until the

account is brought current and the Licensee has paid all administrative and other costs associated with the lien. The power and authority to enforce the transient lodging tax liens created by CCMC 4.08 are delegated to the Carson City Convention and Visitor's Bureau. (CCMC 4.08.170)

5.3 Delinquencies. No business license shall be issued or renewed by the city treasurer pursuant to this section unless it is first determined that all transient lodging taxes, penalties and interest are paid in full, and no delinquencies exist with respect to the rental business whether or not the delinquencies were incurred by the applicant for license or renewal. The Bureau is to notify the treasurer of all license holders with any delinquencies prior to December 1st of each year. (CCMC 4.08.090(3))

5.4 Habitual Delinquencies. Any Licensee who is delinquent in payment of transient lodging taxes on two (2) or more occasions in a twelve (12) consecutive month period, may be required on or before February 1st of the year following the delinquencies, to post a bond in an amount equal to the preceding year's taxes for which the licensee is, or was, obligated. In the event of a new business the CCCVB shall determine, by reference to similarly situated businesses in Carson City, the amount of the bond. The bond must be duly obtained and posted in order for the licensee to continue in business. The CCCVB shall notify the Carson City treasurer of any non-compliance with this section. The treasurer will then schedule an appearance of the owner before the Board of Supervisors for a "show cause" hearing as to why the license should not be revoked for failure to pay the room tax in a timely manner. The bond shall be in effect for a minimum of one (1) year commencing on the date of its effectiveness. All costs in connection with the bond shall be the responsibility of the licensee. The bond shall be written and posted by a company acceptable to the CCCVB. (CCMC 4.08.180(3))

5.5 Appeal of Penalty on Late or Missing Returns. The CCCVB does not permit appeal of penalties and interest for delinquent or missing transient lodging tax returns. The only exception to this policy is where the U.S. Postal Service will accept specific responsibility for the delinquency. In these cases, it is the responsibility of the Licensee to provide written documentation from the Postal Service to the CCCVB within thirty (30) days of the date on the notification of the delinquency. The Postal Service documentation must clearly state that they accept specific responsibility for the untimely delivery of the return in question. Postal Service letters vaguely explaining possible ways mail may be mishandled will not be accepted for penalty abatement.

5.6 Assessment of Deficiency.

5.6.1 Failure to File. If a Licensee fails to file a transient lodging tax return or the Tax Administrator of the CCCVB is not satisfied with the transient lodging tax return(s), the Tax Administrator may compute and determine the amount of transient lodging tax required to be filed and paid by the Licensee upon the basis of:

- (a) The facts contained in the return;
- (b) Any information within its possession or that may come into its possession; or
- (c) Reasonable estimates of the amount.

5.6.2. Multiple Deficiencies. The Tax Administrator of the CCCVB may compute one or more deficiency determinations with respect to the amount due for one or more periods.

5.6.3 Determination Amount. In making its determination of the amount required to be paid, the CCCVB shall impose penalties and interest on the amount of taxes determined to be due at the rate and in the manner set forth in these regulations, unless a different rate is specifically provided by statute.

5.7 Notice of Determination. The CCCVB shall give a Licensee written notice of its determination when a determination has been made. The notice may be served personally or by mail. If served by mail, the notice shall be addressed to the Licensee at his address as it appears in the records of the CCCVB. If notice is served by mail, service is complete at the time of deposit with the United States Postal Service. If notice is served in person, service is complete at the time left with an adult person employed at the place of business of the Licensee.

5.8 Limitation on Deficiency Period; Time for Provision of Notice of Determination.

1. Every notice of the determination of a deficiency assessment issued by the CCCVB shall be personally served or mailed within five (5) years from the close of the accounting year to which the transient lodging tax returns relate or within four (4) years after the return is filed, whichever period expires later.
2. In the case of fraud, intentional evasion, or failure to make a return, or a claim for an additional amount, every notice of determination shall be mailed or personally served within nine (9) years from the end of calendar year following the period for which the amount is proposed to be determined.
3. Every Licensee shall keep all records, receipts, invoices, and other pertinent documents as listed and described in Required Records (Section 8.3) for a period of not less than four (4) years from the close of the accounting year to which the transient lodging tax returns relate.

5.9 Due Dates for Deficiency Assessment. All transient lodging taxes due and payable, as specified in a deficiency determination by the Tax Administrator of the CCCVB, shall be paid within thirty (30) days after the service of notice of the determination unless a petition for re-determination is filed within that period. If the amount of deficiency determination is not paid within the thirty (30) days after the receipt of notice and an appeal is not filed, the deficiency determination becomes final and any penalty for delinquency and interest provided for in these regulations or otherwise permitted by law attaches to the amount of

determination.

6. EXEMPTIONS FROM TRANSIENT LODGING TAX

6.1 More than Twenty-Eight Day Rental Exemptions. If twenty-eight days are paid IMMEDIATELY UPON ARRIVAL no lodging tax is due. **(Case 1, Appendix D)** But if this paying guest leaves before the twenty-eight days are up, room taxes are due on all days of stay and any refund will need to reflect that. **(Case 2, Appendix D)**

If less than twenty-eight days are paid upon arrival, tax is owed on all the nights stayed up to the point of departure or the twenty-ninth day whichever comes first. **(Case 3, Appendix D)**

A paying guest can be tax exempt within those first twenty-eight days at the point the next twenty-eight days are paid in full and **the paying guest stays for the entire next twenty-eight days.** (The stay is taxable until a paying guest does this and no tax paid up to that point should be refunded.) However, if the paying guest leaves before those prepaid twenty-eight days expire, he/she is responsible for room tax for the **entire** first twenty-eight days of stay and any refund would need to reflect that. On the twenty-ninth day of a consecutive stay, the paying guest is tax exempt. **(Case 4, Appendix D)**

Any break in occupancy results in the creation of a new and separate rental. The room tax will apply to charges for such new and separate rentals in the same manner and to the same extent as though such paying guest had just checked in for the first time, and the 28-day taxable period starts over. However, a mere change of rooms in the same establishment does not constitute a break in occupancy.

If the paying guest is not an individual but is a business or corporation that reserves the room(s) for its employees but does not pay for the rent for each renter, then each employee needs to pay as though the room was reserved by the individual, not the business. If the business reserves and pays for the room, then the business is entitled to the same twenty-eight day rental exemptions in the paragraphs above.

BE SURE TO VERIFY ALL EXEMPTIONS THAT ARE CLAIMED, SINCE IF ROOM TAX HAS NOT BEEN CHARGED ON A STAY WHEN IT SHOULD HAVE BEEN AND IS DISCOVERED DURING A ROOM TAX AUDIT, THE PROPERTY IS RESPONSIBLE FOR PAYING THE ROOM TAX.

6.2 Governmental exemptions

6.2.1 State and Local Exemptions. The State of Nevada and the local governments in Nevada are exempt from transient lodging tax. (State and local governments outside of Nevada are not exempt.) Exemption is granted only when the rental is made directly with the state, school district, or local government, and is evidenced by a contract, purchase order or similar document signed by the State of Nevada or a local government in Nevada. If a credit/debit card is used rather than a government check, this can be accepted provided the card is issued by the state or local government department or agency directly engaged in the rental. In addition in order to be exempt, there must be a contract or lodging tax exemption form from the governmental entity which the individual(s) are representing. This form must include the dates which the user is staying and the number of individuals claiming the exemption. This form plus

copies of the paying guest folios showing the total revenue on which the exemption is claimed must be attached to the "Operators Lodging Tax Return" in the month the government exemption is claimed on the form. ANY GOVERNMENT EXEMPTIONS NOT BACKED UP BY THE PROPER DOCUMENTATION ON THE "OPERATORS LODGING TAX RETURN" WILL BE DISALLOWED AND THE TAX OWED CHARGED TO THE LODGING PROPERTY.

6.2.2 Federal and Foreign Exemptions. A tax on transient lodging must not be imposed upon rent paid directly the United States or foreign diplomats who are properly registered with the State Department of the United States and who present a tax exemption card specifically stating the diplomat is exempt from transient lodging tax.

Payment requirements and reporting are the same as stated above in 6.2.1 for State and Local Exemptions. In this case credit/debit cards can be accepted as payment for lodging provided the credit/debit card is issued to the federal government department or agency directly engaged in the rental and there is back-up documentation from the Federal Government as requested for anyone representing the State of Nevada or local government.

6.3 Other Charitable and Not-for-Profit Organizations. Charitable and not-for-profit organizations are not exempt from room tax.

6.4 All exemptions must have adequate documentation. By far the most common cause of audit assessments is the failure of the vendor to maintain adequate documentation to support exempt rentals. Every care should be taken to ensure all documents, preferably originals, that support exempt revenues are retained. Documents should be retained for a minimum of four years. Failure to provide adequate documentation supporting revenues claimed as exempt will result in disallowance of the claimed exemption. In the event the vendor should fail to collect sufficient taxes from the vendee, the balance due to the CCCVB is the responsibility of the vendor.

6.5 Credit for Uncollected Rental Fee.

6.5.1. If a Licensee is unable to collect all or part of the rental fee charged for a transient room rental, the amount of which was included in the gross receipts reported for a previous reporting period, an adjustment to gross receipts for uncollected rental may be claimed on the designated line of the tax return provided that tax was collected and remitted to the CCCVB for the uncollected rental. If the adjustment is not properly claimed on the monthly occupancy tax return and back-up documentation is not attached to the form, it will be disallowed.

6.5.2 Additionally, to validate credits as described in this section, the Licensee shall:

1. Retain written proof of reasonable efforts to collect the rental fee charged; and

2. Retain specific documentation showing separation of room revenue and tax (i.e., folio or written receipt).

6.5.3 Amounts subsequently collected in whole or in part after a credit has been taken shall be reported on the following period's tax return.

6.5.4 Limitations on Claims for Refund or Credit. No credit may be allowed unless a claim for it is filed with the CCCVB within two (2) years after the last day of the month following the close of the period for which the overpayment was made (NRS 244A.649 (2))

7. PACKAGE PROGRAMS

7.1 Tax on Rooms Included in Wholesaler & Promotional Packages. Except as otherwise provided herein, rooms included as part of "package" programs will be taxed on a prorated basis, depending upon the total retail value of the individual package items supplied by the Licensee. Details of package cost, retail value of package components, etc., shall be retained to support returns on which package revenue is reported. The only items that may be included in the "retail value" of a package are those items which are clearly advertised as being purchased by the paying guest for the package price. Any room that is sold as a component of a package will be taxed as follows:

7.2. Definitions.

7.2.1. "Package" defined. For purposes of Section 7, the term "Package" shall mean any aggregation of rooms and food, refreshments, merchandise, Entertainment, service or rights advertised to the public as a single unit for a single price. All rooms included as part of a package are subject to transient lodging taxes regardless of the method of payment (i.e. complimentary, cash, credit, players' points, etc.).

7.2.2 "Gaming Package" defined. For purposes of Section 7, the term "Gaming Package" shall mean any package that includes any gaming activity or event.

7.2.3 "Retail Value of a Room" defined. The "retail value of a room" shall be the Rate for which a room could be rented without discounts. If the retail value cannot be determined, or if the rate used in the calculation is determined to be unreasonable, an average room rate may be used as follows:

7.2.3.1 "Average Room Rate" defined. The average room rate shall be determined from the amounts claimed on the previous year's transient lodging tax returns calculated by dividing the total of taxable room revenue by the number of tax-paying guests as

reported in the occupancy section of the transient lodging tax return.

7.2.4 "Complimentary Room" defined. "Complimentary room" means:

- (a) The room was provided on an individual basis and not as part of any package, advertised or otherwise, which includes other products or services;
- (b) Given completely free of charge and therefore is tax exempt;
- (c) Rooms shall not be considered as given free of charge if included in a package.

8. AUDIT OF LICENSEE'S TRANSIENT LODGING TAX RECORDS AND ASSESSMENT OF DEFICIENCY.

8.1 Authority to Audit the Records of Licensees. The Tax Administrator or her/his representative is authorized to inspect and audit the Licensee's books and records, and take such actions as considered necessary to investigate the accuracy of the Licensee's payment of room taxes, or if no return is made by the Licensee, to ascertain and determine the amount required to be paid. The auditor has the authority to photocopy any record or remove from the premise such records as long as proper inventory of the documentation to be removed is provided to the vendor. (CCMC 4.08.140)

8.2 Length of Audits. Most audits will cover a three (3)-year period. If the Licensee fails to secure and maintain the proper licenses, does not file tax returns as required, and/or the auditor has reason to believe that fraudulent or material misstatements have been made, the audit can go back as far as eight (8) years.

8.3 Required Records. Each Licensee is required to maintain daily records that properly reflect the following minimum information:

- 1. The total rooms available and occupied
- 2. Receipts OR guest folios, AND registration detail, including the name of the property, name of the guest, the number of guests occupying the room, the room number, date paid, dates of occupancy, and a breakdown of what was paid for by the guest with transient lodging tax stated separately.
- 3. The total daily gross receipts.
- 4. A detailed listing of claimed nontaxable/exempt room revenue that includes name of guest, room number, and date(s) of occupancy.
- 5. The total amount of lodging tax collected.
- 6. The number of non-revenue or complementary rooms.
- 7. The number of rooms included in package or promotional offerings and the room rate charged for such rooms together with all package/promotional details.
- 8. Folio documentation for all exemptions and prior month adjustments.

Acceptable methods of maintaining the above list include bound receipt books, guest folios, registration cards, daily transaction reports, general ledgers, cash journals, computer tapes, and similar accepted books of account maintained by a reasonable business person. In addition, Licensees shall provide copies of financial statements (audited if available) prepared by their independent accountant, tax returns and similar documents that can be used to support revenues and exemptions. REMEMBER, if you cannot prove an exemption is valid, it will be disallowed.

8.4. Retention of Records. Every Licensee shall keep all financial records, receipts, invoices and other pertinent documents as listed and described in Required Records (Section 8.3) for a period of not less than four (4) years from the close of the accounting year to which the returns relate. Any Licensee that fails secure and maintain an appropriate business license issued by the City of Carson will be required to maintain and provide records for not less than eight (8) years.

Failure to retain or refusal to furnish such records as described in this section shall not affect the Tax Administrator's authority to assess a deficiency for such periods. The Tax Administrator may utilize and apply available data to those years in which records are unavailable.

8.5 Assessments or Credits Resulting from Transient Lodging Tax Audit.

8.5.1 Notice of Determination. Following the completion of a transient lodging tax audit, the Licensee will be advised of the audit findings. The CCCVB shall give Licensee written notice of its determination when a determination has been made. The notice may be served personally or by mail. If served by mail, the notice shall be addressed to the person at the address as it appears in the records of the CCCVB. If notice is served personally, service is complete at the time left with an adult person employed at the place of business of the Licensee.

8.5.2 Time Limitations. If an assessment for the underpayment or nonpayment of transient lodging taxes is made, the Licensee has (30) days in which to make payment and/or appeal the findings. If payment and/or appeal of the assessment is not forthcoming within (30) days, additional penalties and interest will be charged and the Licensee's business license may not be issued or renewed by the city treasurer's office.

8.5.3 Payment of Assessment. Giving notice of appeal by an Licensee or a delay in the hearing of the appeal does not affect the due date, interest, penalties, or liability for payment of taxes, penalties and/or interest that are the subject matter of the appeal.

8.6 Appeals.

8.6.1 Appeal: Time for Filing.

1. Any Licensee, against whom a deficiency determination is made and who believes that the determination is incorrect, must file an appeal for re-determination with the Tax Administrator within thirty (30) days after the Licensee has been served with notice of determination.
2. If an appeal is not filed within the thirty (30) day period, the Licensee is deemed to have waived his/her right to contest the determination.
3. For good cause shown, the Tax Administrator may extend the time within which an appeal for re-determination must be filed.

8.6.2 Contents of Petition and Accompanying Materials. A petition for redetermination shall:

- (a) Set forth in writing the amount of the determination being contested and the grounds for seeking a re-determination; and
- (b) Be accompanied by the specific records and other evidence, which support the appeal.

8.6.3 Re-determination: Change in Determined Amount; Limitations. The CCCVB may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the CCCVB at or before the hearing.

8.6.4 Re-determination: Finality of Opinion by Appeal Committee; Appeal to CCCVB Board; Finality of Decision of CCCVB Board.

- (a) The opinion issued by the Appeal Committee upon an appeal for redetermination becomes final thirty (30) days after the service upon the petitioner, unless an appeal of the opinion is filed within that time with the Tax Administrator of the CCCVB.
- (b) Appeals not resolved to the satisfaction of the vendor by the Appeal Committee of the CCCVB will be scheduled for a hearing before the CCCVB Board at a regular scheduled meeting.

8.6.5 Redetermination: Credit or Refund.

- (a) The filing of an appeal for re-determination or appeal by any Licensee shall not take away the computation of interest or penalties on any deficiency determination.
- (b) If a determination imposed by the CCCVB is reduced on re-determination or appeal, the Tax Administrator shall credit or refund any amount of taxes or penalties plus interest that have been paid or collected which exceeds the amount owed.

8.7 Limitation on Deficiency Period; Time for Provision of Notice of

Determination

a. Every notice of the determination of a deficiency assessment issued by the CCCVB shall be personally served or mailed within five (5) years from the close of the accounting year to which the room license tax returns relate or within four (4) years after the return is filed, whichever period expires later.

b. In the case of fraud, intentional evasion, or failure to make a return, or a claim for an additional amount, every notice of determination shall be mailed or personally served within nine (9) years from the end of calendar year following the period for which the amount is proposed or determined.

c. Every Licensee shall keep all records, receipts, invoices, and other pertinent documents as listed and described in Required Records (Section 8.3) for a period of not less than four (4) years from the close of the accounting year to which the room license tax returns relate.

8.8 Subpoena or Subpoena Duces Tecum. If the licensee refuses to grant access to the Tax Administrator or a representative(s) chosen by the Tax Administrator, the CCCVB Board may apply to the clerk of the district court for a subpoena or subpoena duces tecum, as the case may be, commanding that the owner or operator of a rental business produce books, papers and records of said business which may be necessary or desirable to enable the CCCVB to properly conduct and audit or examination of any such business. Upon issuance of any such subpoena, any peace officer may serve it. (CCMC 4.08.180 (2c))

APPENDIX A

“Operators Monthly Transient Lodging Tax Return” (With References To CCCVB Room Tax Policy and Procedures Manual)

APPENDIX A

**CARSON CITY CONVENTION & VISITORS' BUREAU
OPERATORS MONTHLY TRANSIENT LODGING TAX RETURN**

*CCCVB ROOM TAX POLICY & PROCEDURE MANUAL

PLEASE READ CCCVB ROOM TAX POLICY AND PROCEDURES MANUAL BEFORE FILLING OUT FORM

OPERATOR'S MONTHLY TRANSIENT LODGING TAX FOR THE PERIOD FROM		TO	*REFER TO SECTION	DO NOT WRITE IN THIS COLUMN
1.	ENTER YOUR GROSS RENTAL REVENUE INCLUDING YOUR 28 DAY (OR MORE) RENTALS		1.5 & 3.3	
2.	ADJUSTMENTS FOR REVENUE FOR PRIOR MONTHS (ATTACH AN EXPLANATION)		6.5	
3.	TOTAL (LINE 1 PLUS OR MINUS LINE 2) EXEMPTIONS		6.1 & 6.4	
DEDUCTIONS				
4.	RENTAL REVENUE - 28 DAYS OR MORE (RENTALS INCLUDED IN LINE 1)		6.1	
5.	REFUNDS PAID BY YOU			
6.	GOVERNMENT EXEMPTIONS (ATTACH DOCUMENTATION)		6.2 & 6.3	
7.	TOTAL DEDUCTIONS (LINES 4, 5 & 6)			
8.	TAXABLE ROOM RENTAL REVENUE (LINE 3 LESS LINE 7)			
9.	GROSS TAX 10% OF LINE 8		3.1	
10.	ALLOWANCE FOR REPORTING - 2% OF LINE 9 (SEE INSTRUCTIONS)		3.9	
11.	NET TAX - (LINE 9 LESS LINE 10)			
12.	PENALTY (IF ANY) (SEE INSTRUCTIONS)		5.1	
13.	INTEREST (IF ANY) (1 1/2% PER MONTH OR FRACTION THEREOF)		5.1	
14.	TOTAL AMOUNT DUE AND PAYABLE			

Please complete Occupancy Report on the reverse side

CERTIFICATE

I HEREBY CERTIFY, that I have examined this report and that the statements made and the figures shown herein and in any accompanying schedules are to the best of my knowledge and belief a true and complete return made in good faith for the period stated, pursuant to the applicable Carson City Ordinance

Signed

Title

Date

Please make your check payable to the:
CARSON CITY CONVENTION & VISITORS' BUREAU
Mail to: 1900 South Carson Street, Carson City, NV 89701
Phone: 775(687-7410)

Penalties and interest are assessed on all delinquent payments. To avoid penalties, returns and remittances should be mailed in time to be postmarked prior to midnight of the due date. Refer to Carson City Convention & Visitors' Bureau Room Tax Policy and Procedure Manual Before Charging Tax or Completing Form. Call (775)687-7410 for a Manual.

MAKE COPY OF LODGING TAX RETURN FOR YOUR FILES

Please use enclosed return envelope

APPENDIX A
SEE SECTION 4.4

OCCUPANCY REPORT**

This report must be completed each month along with the Transient Lodging Tax Return. For assistance, contact (775) 687-7410 at the Carson City Convention & Visitors' Bureau. (If you want an instruction sheet on how to prepare the Transient Lodging Tax Return portion (reverse side), please call the accountant at the CCCVB & request "HOW TO PREPARE THIS REPORT" OR REFER TO THE "CCCVB ROOM TAX POLICY & PROCEDURE MANUAL")

1. Number of room nights available to rent during the month. _____ (Number of rooms available for rental times the number of days in the month.)
- 2.* Number of room nights occupied by transient rentals (less than 28 days) during the month. _____
 - A. How many of these room nights were discounted? _____
- 3.* Number of rooms & room nights 28 days or more during the month. (Non-taxable).
Total number of rooms _____ Total number of room nights _____

The following rules apply to any rental revenue for a room or rooms for a period of 28 days or more:

- A. There is excepted from the transient lodging tax, each rental by any licensee of a room or rooms, for a period of 28 consecutive days or more.
 - B. No rental shall be deemed to have been made for a period of 28 days or more unless the room or rooms rented to the lessee is paid for in advance for at least such period or have been previously rented by the lessee continuously for such a period.
4. Percent of total occupancy: _____ %
(Number of transient occupied rooms (from question #2 above), divided by rooms available (from question #1) = hotel occupancy %).

*NUMBER OF ROOMS OCCUPIED OF THE NUMBER OF ROOMS AVAILABLE. I.E. IF A ROOM IS RENTED FOR 28 DAYS OR MORE AND, HALF, OR LETS ASSUME, 14 DAYS ARE IN THE PREVIOUS MONTH AND 14 DAYS IN THE CURRENT MONTH, THE NUMBER OF ROOMS OCCUPIED FOR 28 DAYS OR MORE DURING THE CURRENT MONTH SHOULD BE 14 FOR THIS INDIVIDUAL.

**IT IS VERY IMPORTANT FOR THIS SECTION TO BE COMPLETED SEE SECTION 4.4 OF "CCCVB ROOM TAX POLICIES AND PROCEDURES".

APPENDIX B

City of Carson Municipal Code 4.08, Room Tax

Appendix B

City of Carson Code

Chapter 4.08

ROOM RENTAL TAX

Sections:

- 4.08.010 Definitions generally.
- 4.08.020 City defined.
- 4.08.030 Lessee defined.
- 4.08.040 Transient lodging taxes defined.
- 4.08.050 Licensee defined.
- 4.08.060 Person defined.
- 4.08.070 Rental business and room defined.
- 4.08.080 Imposition and rate of tax.
- 4.08.090 License required.
- 4.08.100 Exemptions.
- 4.08.110 Transient lodging – Collection from lessee.
- 4.08.120 Display of notice.
- 4.08.130 Payment of Tax.
- 4.08.140 Examination of books and records.
- 4.08.150 Registers required.
- 4.08.160 Assignment of tax proceeds.
- 4.08.170 Delegation of authority to enforce transient lodging tax liens.
- 4.08.180 Penalty for delinquent payment of transient lodging tax.

4.08.010 Definitions generally.

The definitions stated in Sections 4.08.020 to 4.08.070, inclusive, shall apply to this chapter unless the context requires otherwise. (Amended by Ord. 1984-34, #1, 1984).

4.08.020 City defined. The terms “city” means Carson City.

4.08.030 Lessee defined. The term “lessee” means any person renting accommodations from a licensee.

4.08.040 Transient lodging taxes defined. The term “transient lodging taxes” means all taxes levied pursuant to this chapter. (Ord. 1990-25 #1, 1990)

4.08.050 License defined. The term “licensee” means any person operating a rental business.

4.08.070 Rental business and room defined. 1. The term “rental business” means the operation of any hotel, motel, auto court, motor court, lodge, lodginghouse, apartment, apartment house, apartment house hotel, roominghouse, guest house, guest house, trailer court, trailer park, tourist camp, ranch resort, guest ranch, cabin or other accommodation having four or more rooms for rental.

treasurer of all license holders with any delinquencies prior to December 1st of each year. (Ord. 1990-25 #3, 1990: Ord. 1982-44 #1, 1982).

4.08.100 Exemptions. There is excepted from the transient lodging tax each rental by a licensee of a room or rooms made for a period of twenty-eight (28) days or more. This exemption, however, applies only where payment is made for the entire twenty-eight (28) day period upon arrival, in which case the exemption commences on the first day of occupancy; or payment is made for less than twenty-eight (28) days upon arrival, in which case the exemption commences on the twenty-ninth (29th) day of occupancy. (Ord. 1994-58 #1, 1984: Ord 1990-25 #4, 1990).

4.08.110 Transient lodging tax-collection from lessee. 1. Each licensee shall add the amount of the transient lodging tax to the amount of the room rentals due and shall collect the tax and rentals from each lessee.

2. The amount of the tax shall be displayed separately from the price of the accommodation or room on the guest registration card or other proof of guest registration. (Ord. 1990-25 #5, 1990).

4.08.120 Display of notice. Each licensee shall prominently display in each room or suite of rooms leased as a unit, or at the licensee's option, in a lobby at or in the immediate vicinity of the registration desk for the business, a sign reading substantially as follows:

NOTICE

For each rental of less than twenty-eight days, this business is required by law to collect a ten percent transient lodging tax.

THE MANAGEMENT

(Ord. 2003-5 #2, 2003: Ord. 1990-25 #6, 1990).

4.08.130 Payment of tax. Transient lodging taxes shall become due and payable to the Convention and Visitors' Bureau on the last day of each month next succeeding the calendar month or fraction thereof during which the license taxes accrued, and shall become delinquent if not paid on or before the first day of the second succeeding month. (Ord. 1990-25 #7, 1990: Ord. 1984-34 #3, 1984).

4.08.140 Examination of books and records. 1. The board or its duly authorized agent may examine and audit the books, papers and records of any person operating a rental business within the city and make investigations in connection therewith.

2. If any person operating a rental business refuses to allow the board or its duly authorized agent to examine and audit the books, papers, and records of the rental business, the board may estimate the amount of transient lodging tax due for any month based upon the following information:

(a) In cases where the rental business is a new business, the amount of volume of business done by rental business of like kind, character, and location; or

2. "Room," "rooms," and "room rentals" mean any accommodation rented by the operator of any facility described in the definition of "rental business." (Amended by Ord. 1977-2 #1, 1977).

4.08.080 Imposition and rate of tax. 1. There is hereby fixed and imposed a transient lodging tax on every licensee operating a rental business within the city in the amount of seven percent of the amount of gross income derived from room rentals received by each licensee from the renting of rooms within the corporate limits of the city. This transient lodging tax is in addition to any license, fee or charge fixed or imposed by any other provision of the CCMC.

2. In addition to the transient lodging tax imposed above, there shall be a tax of one percent of the gross receipts from the rental of lodging in Carson City upon all persons in the business of providing lodging. Three-eighths of this amount shall be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism. Five-eighths of the additional one percent tax shall be deposited with the Carson City Convention and Visitors' Bureau to be used to advertise the resources of Carson City related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto. (Ord. 1990-25 #2, 1990; Ord. 1984-34 #2, 1984; Ord. 1983-14 #1, 1983).

3. In addition to the transient lodging tax imposed above, there shall be a tax of two percent (2%) of the above, there shall be a tax of two percent (2%) of the gross receipts from the rental of lodging in Carson City upon all persons in the business of providing lodging. The additional two percent (2%) shall be deposited with the Carson City Convention and Visitors' Bureau to be used primarily for the payment of capital costs, including construction, administration and the retirement of bonds for the Virginia and Truckee Railroad Reconstruction Project route between Virginia City and Carson City, Nevada. Additionally, any remaining funds shall be used for, but not limited to, upgrades, maintenance, operations, planning and administration for the Virginia and Truckee Railroad project as directed by the Board of Directors of the Carson City Convention and Visitors' Bureau. The imposition of this tax will be a single purpose directed levy for the reconstruction of the Virginia and Truckee Railroad. At which time the project is completed, abandoned prior to reconstruction, or for any reason no longer requires this funding, the tax will sunset and expire without further action of the Carson City Convention and Visitors' Bureau. (Ord. 2002-42 #1, 2002).

4.08.090 License required. 1. The city treasurer shall issue written business licenses, in such form as may be prescribed by the board, upon application therefor, and it shall be unlawful for any person, either for himself or for any other person to, either for himself or for any other person to commence or carry on any rental business within the city without first having procured a business license from the city treasurer to do so.

2. The carrying on of any such rental business without first having procured a business license from the city treasurer shall constitute a separate violation for each day that such business is so carried on.

3. No business license shall be issued or renewed by the city treasurer pursuant to this section unless it is first determined that all transient lodging taxes, penalties and interest are paid in full, and no delinquencies exist with respect to the rental business whether or not the delinquencies were incurred by the applicant for license or renewal. The Bureau is to notify the

(b) In cases where the rental business is a continuing business, the amount of volume of business done in the corresponding month of the preceding year, plus any reasonably estimated increase in the amount of volume of business in the present year.

(c) Additionally, the board may apply to the clerk of the district court for subpoena or a subpoena duces tecum, as the case may be, commanding that the owner or operator of a rental business produce books, papers and records of said business which may be necessary or desirable to enable the board to properly conduct an audit or examination of any such business. Upon issuance of any such subpoena, any peace officer may serve it. (Ord. 1977-22 #1, 1977).

4.08.150 Registers required. Every licensee shall keep a register of all persons occupying rooms in their respective rental businesses.

4.08.160 Assignment of tax proceeds. All proceeds of the transient lodging tax fixed and imposed by this chapter are hereby assigned to the Convention and Visitors' Bureau in accordance with, under the authority of, and for the purposes and to the full extent set forth in Nevada Statutes, Section 269.095 and Sections 244A.597 to 244A.655, inclusive. (Ord. 1990-25 #9, 1990: Ord. 1984-34 #4, 1984)

4.08.170 Delegation of authority to enforce transient lodging tax liens. The power and authority to enforce the transient lodging tax liens created by this chapter are hereby delegated to the Carson City Convention and Visitors' Bureau. (Ord. 1990-25 #10, 1990: Ord. 1984-34 #5, 1984).

4.08.180 Penalty for delinquent payment of transient lodging tax. 1. If any transient lodging taxes provided for in this chapter are delinquent, a penalty shall be imposed and collected. The penalty shall be computed at the rate of 10 percent (10%) of the delinquency or an administrative fee of seventy-five dollars (\$75.00), whichever is greater. Additionally, there shall be charged interest at the rate of one point five percent (1.5%) per month or fraction of the month on all delinquencies. Penalties shall not be compounded.

2. In the event, upon audit or otherwise, it is determined by the executive director of the Carson City Convention and Visitors' Bureau that any delinquency is due to unintentional conduct on the part of the licensee, the executive director, upon prior written notice to the governing body of the Bureau, may waive all or some of the delinquency imposed pursuant to subsection (1) of this section and may impose a penalty of no less than ten percent (10%) or seventy-five dollars (\$75.00), whichever is greater, of the delinquency. The authority delegated herein to the executive director shall not extend to delinquencies attributed to transient lodging taxes authorized and mandated to be collected by NRS 244.3352 or to cases of fraud, intentional conduct, or evasion of payment on the part of a licensee.

3. As a further means of deterring tax delinquencies, if any licensee has two (2) or more delinquencies for any calendar year, then said licensee shall be required, on or before February 1st of the year following the delinquencies, to post a bond in an amount equal to the preceding year's taxes for which the licensee is, or was, obligated. In the event of a new business the Carson City Convention and Visitors' Bureau shall determine, by reference to similarly situated businesses in Carson City, the amount of the bond. The bond must be duly obtained and posted in order for the

licensee to continue in business. The Carson City Convention and Visitors' Bureau shall notify the Carson City treasurer of any non-compliance with this section. The bond shall be in effect for a minimum of one (1) year commencing on the date of its effectiveness. All costs in connection with the bond shall be the responsibility of the licensee. The bond shall be written and posted by a company acceptable to the Carson City Convention and Visitors' Bureau. The bond shall run in favor of the Carson City Convention and Visitors' Bureau. Any owner of real property upon which a licensee operates a hotel/motel is responsible for payment of room taxes should the licensee fail to pay. In the event that the real property upon which the hotel/motel is located is sold or otherwise transferred, the new owner is likewise responsible to pay all room taxes generated but not paid by prior licensee or owners.

4. A return must be filed for each reporting period regardless of tax liability. Failure to file a return will result in a penalty of seventy-five dollars (\$75.00) for each return not filed.

5. Every person, either for himself or as an agent of another, who commences, engages in, conducts or carries out any rental business for which a license is herein required, without first procuring such license or who shall fail or refuse to pay the room tax as herein provided, or who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment in the jail for not exceeding six (6) months or by both such fine and imprisonment. (Ord. 2000-17 #1, 2000: Ord. 1994-58 #2, 1994: Ord. 1990-25 #11, 1990: Ord. 1985-41 #1, 1985).

APPENDIX C

State of Nevada, Transient Lodging Taxes

**APPENDIX C
STATE OF NEVADA
TRANSIENT LODGING STATUTES**

NRS 244.3352 Mandatory tax on revenues from rental of transient lodging: Imposition and collection; schedule for payment; penalty and interest for late payment.

1. The board of county commissioners:
 - (a) In a county whose population is 400,000 or more, shall impose a tax at a rate of 2 percent; and
 - (b) In a county whose population is less than 400,000, shall impose a tax at the rate of 1 percent, of the gross receipts from the rental of transient lodging in that county upon all persons in the business of providing lodging. This tax must be imposed by the board of county commissioners in each county, regardless of the existence or nonexistence of any other license fee or tax imposed on the revenues from the rental of transient lodging. The ordinance imposing the tax must include a schedule for the payment of the tax and the provisions of subsection 4.
2. The tax imposed pursuant to subsection 1 must be collected and administered pursuant to NRS 224.335.
3. The tax imposed pursuant to subsection 1 may be collected from the paying guests and may be shown as an addition to the charge for the rental of transient lodging. The person providing the transient lodging is liable to the county for the tax whether or not it is actually collected from the paying guest.
4. If the tax imposed pursuant to subsection 1 is not paid within the time set forth in the schedule for payments, the county shall charge and collect in addition to the tax:
 - (a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the board of county commissioners, whichever is greater; and
 - (b) Interest on the amount due at the rate of not more than 1.5 percent per month or fraction thereof from the date on which the tax became due until the date of payment.
5. As used in this section, "gross receipts from the rental of transient lodging" does not include the tax imposed and collected from paying guests pursuant to this section or NRS268.096.

(Added to NRS by 1983, 476; A 1987, 900; 1989, 167, 907; 1997, 2458)

NRS 244.3354 Mandatory tax on revenue from rental of transient lodging: Distribution of proceeds. The proceeds of the tax imposed pursuant to NRS 244.3352 and any applicable penalty or interest must be distributed as follows:

1. In a county whose population is 400,000 or more:
 - (a) Three-eighths of the first 1 percent of the proceeds must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.
 - (b) The remaining proceeds must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.
2. In a county whose population is less than 400,000:
 - (a) Three-eighths must be paid to the department of taxation for deposit with the state

treasurer for credit to the fund for the promotion of tourism.

(b) Five-eighths must be deposited with the county fair and recreation board pursuant to NRS 244A.599 or, if no such board is created, with the board of county commissioners, to be used to advertise the resources of that county related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.

(Added to NRS by 1983, 476; A 1987, 901; 1993, 2330; 1997, 2459)

NRS 244A.645 Powers of county fair and recreation board concerning license taxes

assigned or appropriated by cities, towns and counties. In connection with any license taxes assigned or appropriated by any city, town or county, or any combination thereof, for use in connection with NRS 244A.597 to 244A.655, inclusive, the county fair and recreation board of any county, upon behalf of the county, in addition to powers elsewhere conferred, may:

1. Collect the proceeds of such taxes from time to time, receive, control, invest and order the expenditure of all money pertaining thereto, prescribe a procedure there for, including, but not limited to:

(a) Enforcing the collection of any delinquent taxes and providing penalties in connection therewith, including, without limitation, the suspension of the business license issued by a county, city or town to a transient lodging facility and the closure of a transient lodging facility for failure to pay the tax on transient lodging; and

(b) Creating an office and hiring personnel there for.

2. Defray the reasonable costs of collecting and otherwise administering such taxes from not exceeding 10 percent of the gross revenues so collected, excluding from this limitation and from those gross revenues any costs of collecting any delinquent taxes borne by any delinquent taxpayer. The incorporated cities collectively and any county may enter into an agreement with the board for the payment of collection fees which may be more or less than 10 percent of the gross revenues collected.

3. Defray further with the proceeds of any such tax the costs of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby, of operating and maintaining recreational facilities under the jurisdiction of the board, including, without limiting the reasonable expenses pertaining to the promotion of tourism and gaming generally, both individually and through grants to the chambers of commerce of the incorporated cities of the county or other nonprofit groups or associations, and of improving, extending and bettering any recreational facilities authorized by NRS 244.655, inclusive, including, but not limited to, making annual grants to the state, the county and incorporated cities in the county for capital improvements for recreational facilities, and of constructing, purchasing or otherwise acquiring any such recreational facilities.

4. Redeem any general obligation bonds or revenue bonds of the county issued pursuant to NRS 244A.597 to 244A.655, inclusive, principal, interest and any prior redemption premium, regardless of whether such taxes are pledged as additional security for their payment.

5. Make contracts from time to time concerning any such license taxes, notwithstanding any such contract may limit the exercise of powers pertaining thereto, including the right of any city, town or the county from time to time to increase, decrease or otherwise modify the tax, but no such change may be made which prejudicially affects any pledge of tax proceeds as additional security for the payment of bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive, and

each other political subdivision assigning or appropriating such taxes pertaining thereto must consent to any such modification.

6. Make rules and regulations concerning such license taxes, and provide penalties for the failure to comply therewith.

(Added to NRS by 1960, 180; A 1973, 1511; 1975, 551; 1989, 1019; 1993, 2652; 1999, 988)

NRS 244A.657 Collected license taxes held in trust. All taxes, levied by a city, town or county for use in connections with NRS 244A.597 to 244A.655, inclusive, and collected by any motel, hotel or gaming establishment are public moneys from the moment of their collection and shall be held in trust by the establishment collecting such taxes for the use and benefit of the city, town or county levying such taxes or for the use of the county fair and recreation board where such revenues have been assigned or appropriated to the county fair and recreation board.

(Added to NRS by 1969, 874) - (Substituted in revision for NRS 244.744)

NRS 244A.649 Refund or credit of payment of license taxes; claim.

1. If the county fair and recreation board determines that any license tax assigned to it, or penalty or interest thereon, has been paid more than once or has been erroneously or illegally collected or computed, the board shall, subject to the conditions specified in this section, refund to the person or corporation or its successors, administrators, executors or assigns the excess amount collected or paid. In lieu of a refund, the board may grant a credit to the licensee against future license tax payments.

2. A refund or credit shall not be allowed unless a claim therefor is filed with the board within 2 years from the last date that the overpayment was made. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed constitutes a waiver of any demand against the city or county imposing the license tax and against the board.

4. Within 30 days after disallowing any claim, in whole or in part, the board shall serve notice of its action on the claimant.

(Added to by NRS by 1973, 315)

NRS 651.040 Certain rates must be included on printed statement of charges or rates; registration card must be maintained; receipt must be given; charges must not exceed rates on printed statement; liability for violations; criminal penalty.

1. As used in this section, unless the context otherwise requires:

(a) "Establishment" means any hotel, motel, inn or motor court.

(b) "Owner" or "keeper" means any person, firm, association or corporation.

(c) "Rates" means the total charge levied at the establishment for rooms or accommodations.

2. The rates listed on the principal statement required to be maintained by an owner or keeper of an establishment pursuant to NRS 651.030 must include the daily rate of the room for occupancy by one person, for occupancy by two persons, the additional charge, if any, for each person over two persons and the additional charge, if any, for each additional bed provided in the room. Every establishment shall maintain a registration card for each room and supply the person or persons registering for accommodations a receipt. **Both the registration card and the**

receipt must reflect the type of accommodations supplied, the number of persons occupying the accommodation and the rate charged each person there for. An establishment shall not charge more than the rates listed on the printed statement required to be maintained by an owner or keeper of an establishment pursuant to NRS 651.030.

3. For any violation of this section, or any provision herein contained, the offender shall forfeit to the injured party 3 times the amount of the sum charged in excess of what he is entitled to charge.

4. Any owner or keeper of any establishment who violates any of the provisions of this section is guilty of a misdemeanor.

(Added to NRS by 1959, 639; A 1960, 140; 1967, 645, 1247; 1993, 259; 1999, 3286)

NRS 268.095 Powers of governing body; application for certain licenses; imposition of license tax; uses of proceeds of tax; license tax as lien; enforcement of lien; confidentiality of information concerning tax or taxpayer.

1. The city council or other governing body of each incorporated city in this state, whether organized under general law or special charter, may:

(a) Except as otherwise provided in NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive:

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive:

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655 inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general obligations issued by the city for a purpose authorized by the City Bond Law, NRS 268.672 to 268.740, inclusive.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the City Bond Law, NRS 268.672 to 268.740, inclusive;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The proceeds of any tax imposed pursuant of this section that are pledged for the

repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

3. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of chapter 36A of NRS. The city licensing agency shall provide upon request an application for a business license pursuant to chapter 364A of NRS.

4. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The department of taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the state has issued or will issue a license required for this activity.

5. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced in the following manner:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

6. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any license obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by a member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the department of taxation for the exchange of information concerning taxpayers.

7. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, and any other law. No part of this section repeals or affects any other law or any part thereof,

it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

(Added to NRS by 1957, 643; A 1960, 179; 1963, 794; 1971, 497; 1973, 325; 1983, 761; 1987, 1712; 1989, 908; 1991, 31, 2327, 2462; 1993, 617, 2653; 1995, 2806; 1997, 3169)

NRS 268.0953 Levy, collection and transmission of certain license taxes to county fair and recreation board for payment of bonds or other obligations.

1. Any license tax:

(a) Which is levied by a city located in a county whose population is 100,000 or more against any lawful trade, calling, industry, occupation, profession or business conducted in that city;

(b) Whose proceeds are pledged for the payment of any bonds or other obligations issued pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive; and

(c) Which is being collected by the city on January 1, 1995, must continue to be levied, collected and transmitted to the county fair and recreation board created pursuant to NRS 244A.599 as long as any of bonds or other obligations issued pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive, remain outstanding and unpaid.

2. The proceeds of the license tax must be used by the county fair and recreation board for the purposes set forth in NRS 244A.597 to 244A.655, inclusive, including the payment of any bonds or other obligations issued pursuant to those provisions, and may be irrevocably pledged by the county fair and recreation board to the payment of bonds or other obligations issued pursuant to those provisions.

(Added to NRS by 1995, 1603; A 1999, 989)

NRS 268.096 Tax on revenues from rental of transient lodging: Imposition and collection; schedule for payment; penalty and interest for late payment.

1. The city council or other governing body of each incorporated city:

(a) In a county whose population is 400,000 or more, shall impose a tax at a rate of 2 percent; and of the gross receipts from the rental of transient lodging in that city upon all persons in the business of providing lodging. This tax must be imposed by the city council or other governing body of each incorporated city, regardless of the existence or nonexistence of any other license fee or tax imposed on the revenues from the rental of transient lodging. The ordinance imposing the tax must include a schedule for the payment of the tax and the provisions of subsection 4.

2. The tax imposed pursuant to subsection 1 must be collected and administered pursuant to NRS 268.095.

3. The tax imposed pursuant to subsection 1 may be collected from the paying guests and may be shown as an addition to the charge for the rental of transient lodging. The person providing the transient lodging is liable to the city for the tax whether or not it is actually collected from the paying guest.

4. If the tax imposed pursuant to subsection 1 is not paid within the time set forth in the schedule for payment, the city shall charge and collect in addition to the tax:

(a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the governing body, whichever is greater; and

(b) Interest on the amount due at the rate of not more than 1.5 percent per month or

fraction thereof from the date on which the tax became due until the date of payment.
(As used in this section, "gross receipts from the rental of transient lodging" does not include the tax imposed or collected from paying guests pursuant to this section or NRS.)

APPENDIX D

Examples to Clarify Section 6.1

Room Tax Exemptions

Appendix D

Examples to Clarify Section 6.1

Room Tax Exemptions

Case 1:

A paying guest arrives on March 1st and pays for the first twenty-eight days of stay; this guest is tax exempt through March 28th and any days stayed thereafter.

Case 2:

A paying guest arrives on March 1st and pays for the first twenty-eight days of stay. However, this guest leaves on March 24th. Any refund would need to deduct the room taxes owed from March 1st through March 23rd.

Case 3:

A paying guest arrives on March 1st, pays weekly or daily through March 28th; this guest is responsible for room taxes through the 28th; on the 29th day forward he/she is tax exempt.

Case 4:

A paying guest arrives on March 1st and pays through March 7th. This stay is taxable through March 7th. However, because this guest has decided for whatever reason that they want to stay for at least the next twenty-eight days or more, this guest can pay the next twenty-eight days in advance without room tax being charged on those next twenty-eight days provided this guest does stay through April 4th. (Even if the guest stays through April 4th, the room tax already paid through March 7th is not to be refunded.) However, if the guest does not stay through April 4th or the entire next twenty-eight days, the following applies:

1. If the above paying guest leaves on March 24th; then room taxes would be owed for the first 23 days. Since tax has already been paid from March 1 through the 7th; then 16 days of additional room tax would need to be deducted from the lodging refund; so all of the stay is taxable.
2. If the above paying guest leaves on March 31st, then room taxes would be owed for the first 28 days of stay or an additional 21 days of room tax would need to be deducted from the refund since room tax has already been collected on seven days. The stay on March 29 and 30th would be tax exempt.

JASON D. WOODBURY
District Attorney
775.283.7677
jwoodbury@carson.org



**OFFICE OF THE
CARSON CITY DISTRICT ATTORNEY**
885 East Musser Street, Suite 2030
Carson City, NV 89701
775.887.2070 • 775.887.2129 fax
www.carson.org

June 27, 2019

Via E-Mail

Ms. Nancy Paulson
City Manager
201 N. Carson Street, Suite 2
Carson City, NV 89701

Dear Ms. Paulson:

You have requested an opinion from this office regarding the legality of a 2% allowance for early reporting ("collection allowance") currently provided to licensees of transient lodging ("licensees") in Carson City as a form of discount to be applied to transient lodging tax payable by licensees who remit their payments early. You have also asked this office to discuss, if the application of such a collection allowance is determined to be generally lawful, whether the current collection allowance was in fact properly established through appropriate means or procedures.

Based on the analysis set forth below, it is the opinion of this office that the Carson City Board of Supervisors ("Board") has the authority to adopt a collection allowance or other prepayment incentive to be applied against the full amount of the transient lodging tax payable by licensees and is therefore lawful. However, it is also the opinion of this office that the current collection allowance being applied may not have been properly implemented because it does not appear to have been adopted by the Board, which retains the sole authority to establish such an allowance as the governing body of Carson City.

BACKGROUND

Nevada Revised Statutes ("NRS") 244.335 authorizes a board of county commissioners¹ to regulate businesses within its county and to impose business license taxes. NRS 244.355(1). More specifically, NRS 244.3352 imposes a mandatory tax on transient lodging and NRS 244.3351 authorizes the imposition of optional taxes on revenues generated from the rental of transient lodging ("transient lodging tax"). *Id.*

¹ Under NRS 0.0305, "[t]he term 'board of county commissioners,' or 'board,' when referring to the boards of county commissioners of the several counties, includes the board of supervisors of Carson City."

The statute does not define the term “transient lodging” and instead requires the adoption of an ordinance that defines “transient lodging” for the purpose of collecting the tax. NRS 244.33565(1). Carson City, by way of the Board as its governing body, has elected to impose taxes on every licensee operating a rental business within the city pursuant to its adoption of CCMC 4.08.080. Licensee is defined as any person operating a rental business. CCMC 4.08.050.

CCMC also defines the types of rental businesses subject to the tax and includes “any hotel, motel, auto court, motor court, lodge, lodging house, apartment, apartment house, apartment house hotel, rooming house, guest house, trailer court, trailer park, tourist camp, ranch resort, guest ranch, cabin or other accommodation having four (4) or more rooms for rental.” CCMC 4.08.070. The Board created a county fair and recreation board known as the Carson City Cultural & Tourism Authority (“CTA”) (formerly known as the Carson City Visitors Bureau (“CCVB”)) and assigned it authority to receive and collect all proceeds of both the mandatory and optional transient lodging taxes for Carson City. CCMC 4.08.160.

NRS 244.3352 mandates a 1% tax on room rentals regardless of any other license fees or taxes imposed on transient lodging. NRS 244.3352(1)(b). In counties with a population of less than 700,000, like Carson City, three-eighths of the mandatory tax must be paid to the Department of Taxation and five-eighths must be deposited with the county fair and recreation board. *Id.* The proceeds of this mandatory tax cannot be used to defray collection or administration costs. NRS 244.3356(2).

In addition to the mandatory tax, a board of county commissioners may impose an additional tax of 1% from the gross receipts from rental of transient lodging. NRS 244.3351. The statute does not contain any prohibitions against additional taxes on transient lodging. Aside from the restrictions on the use and distribution of the mandatory 1% transient lodging tax, there are no other provisions in NRS that preclude the City from adopting a prepayment discount or allowance such as the collection allowance currently applied in Carson City.

In May 2005, the CCVB approved a “Room Tax Policies and Procedures” manual (“CCVB manual”), a copy of which is attached to this opinion. According to a cover letter from the CCVB Executive Director to the CCVB Board, also attached, the CCVB manual was developed by incorporating certain policies previously adopted by Douglas County and the Reno-Sparks Convention & Visitor’s Authority (“RSCVA”). The letter explained that the CCVB manual would be mailed to all managers and owners of transient lodging properties after approval by the “Board.” The letter further stated that the CCVB manual was approved by the CCVB Board on May 9, 2005. It is not clear from the letter, however, whether the CCVB manual received approval from the Board of Supervisors or only the CCVB Board.

Among other provisions, the CCVB manual includes a provision styled as Section 3.9 “Allowance for early reporting,” which sets forth the following:

3.9 Allowance for early reporting. 2% of the gross tax can be deducted from payment if the return is filed on or before the 15th day of the due month.

This provision appears to be modeled after a similar “Collection Allowance” adopted by the RSCVA in its “Transient Lodging Tax and Surcharge Regulations,” which provides, in pertinent part:

3.8. Collection Allowances. Nevada legislation prohibits a collection allowance on a 1% county-wide room tax that became effective July 1, 1991. Except for that 1%, a Transient Lodging facility shall be eligible to retain a collection allowance equal to 2% of the tax owed if the following criteria are met:

The RSCVA regulation also identifies qualifying criteria that must be met to obtain the referenced collection allowance. The CCVB manual does not contain similar criteria and appears to be available to all licensees who submit prepayment of their room tax.

Based on information provided to this office, it appears that the practice in Carson City has been to allow licensees to deduct 2% from the total gross transient lodging tax required to be remitted to the CTA so long as the payment is made by a certain date. The 2% collection allowance is reflected as a line item in the “Operators Monthly Transient Lodging Tax Return.” The licensee calculates its gross rental revenue and then using the form makes calculations and deductions, including the allowance for reporting before the 15th of the month.

The following is an illustrative example of the form as completed by a licensee in September 2018:

	REPORTED	TO BE PAID WITH OR THIS COLUMN
1. GROSS RENTAL REVENUE INCLUDING YOUR 28 DAY (OR MORE) RENTALS	80789.05	
2. ADJUSTMENTS FOR REVENUE FOR PRIOR MONTHS (Attach an explanation)	-	
3. TOTAL (Line 1 plus or minus Line 2)		
DEDUCTIONS		
4. RENTAL REVENUE - 28 DAYS OR MORE (Rentals included in Line 1)	9344.95	
5. REFUNDS PAID BY YOU	-	
6. GOVERNMENT EXEMPTIONS (Attach documentation)	-	
7. TOTAL DEDUCTIONS (Line 4 + 5 + 6)	9344.95	
8. TAXABLE ROOM RENTAL REVENUE (Line 3 less Line 7)	71444.06	
9a. PREPAID TAXABLE ROOM RENTAL REVENUE (Paid on or before 09/30/18. Attach documentation)	-	
9b. TAXABLE ROOM RENTAL REVENUE (Paid on or after 10/1/18) (Line 8 less Line 9a)	-	
10a. GROSS TAX 10% OF LINE 9a.	-	
10b. GROSS TAX 11% OF LINE 9b.	7859.26	
10c. TOTAL GROSS TAX (Line 10a + Line 10b)	-	
11. ALLOWANCE FOR REPORTING 2% OF LINE 10c =	157.19	
<i>If paid on or before the 15th, enter calculated allowance from above, here</i>	-	
12. NET TAX (Line 10c less Line 11)	-	
13. PENALTY (if any - see instructions)	-	
14. INTEREST (if any - 1.5% per month or fraction thereof)	-	
15. TOTAL AMOUNT DUE AND PAYABLE	7706.07	

Penalties and interest are assessed on all delinquent payments. To avoid penalties, returns and remittance should be mailed in time to be postmarked prior to midnight of the due date. Refer to Carson City Visitors Bureau Room Tax Policy and Procedure Manual before charging tax or completing form. Please call (775) 687 7410 to request a copy of

The transient lodging tax imposed by Carson City is applied to every licensee operating a rental business within the City and CCMC delineates how the funds may be used. CCMC 4.08.080. Currently, the only codified exemption from the tax is for the rental of a room for a period of 28 days or more if payment for the entire 28-day period is made upon arrival. CCMC

4.08.100. The 2% collection allowance for early reporting is not codified in CCMC and is applied presumably by operation of the CCVB manual alone.

LAW AND ANALYSIS

NRS 244.335(1)(b) authorizes the Board to impose and collect a license tax for revenue or regulation or both. The Board is further authorized to delegate enforcement and collection power to its county fair and recreation board for taxes levied in connection with recreational facilities. NRS 244.335(8). Carson City has delegated to the CTA this authority to collect and expend the tax funds collected in accordance with the applicable provisions of CCMC and NRS. CCMC 4.08.160.

Although the Board has delegated collection authority to the CTA, the CTA does not have any independent taxing power. NRS 244A.597 to 244A.633, inclusive. Specifically, NRS 244A.645 describes the powers a recreation board has with regard to license taxes that have been assigned to it. Among other powers, the CTA has authority to collect the proceeds from the transient lodging tax and order the expenditure of that money. NRS 244A.645(1). The CTA is also authorized to defray up to 10% of the gross revenues collected for the reasonable cost of administering and collecting the tax. NRS 244A.645(2). But there is no provision in NRS 244A.645 that allows the CTA to then pass this collection allowance on to licensees or make any other modification to the transient lodging tax.

The CTA has the authority to make rules and regulations concerning such license taxes and establish penalties for noncompliance. NRS 244A.645(6). However, NRS 244A.645 does not include any provisions authorizing the CTA to allow prepayment discounts or other collection allowances through the adoption of rules and regulations.

It is the opinion of this office that the authority to impose a transient lodging tax and any discounts or collection allowances rests solely with the Board. The CTA may adopt regulations concerning collection and expenditure of the fees but not in a way that alters the tax rate without approval from the Board. Because the Board has authority to impose the tax, it is also the opinion of this office that the Board has the authority to set payment incentives, such as the 2% collection allowance applied in Carson City, in the absence of any statutory or regulatory prohibition. A collection allowance is essentially a lower tax because it reduces the amount owed by a licensee for transient lodging. Therefore, any regulation that effectively reduces that tax must be adopted by the Board of Supervisors.

The cover letter accompanying the CCVB manual states that the manual received approval from the CCVB Board on May 9, 2005. This statement is corroborated by the agenda from the May 9, 2005 CCVB meeting. But after a review of the agendas and meeting minutes for the year 2005, no items could be found where the Board of Supervisors took action or discussed the CCVB manual or the collection allowance. Based upon this review, it does not appear that the Board ever took formal action to approve of the collection allowance. It is the

opinion of this office that the collection allowance is not valid because it did not receive Board approval.

The CTA and the Board of Supervisors have options on how to proceed regarding the transient lodging tax and the collection allowance. If the City wants to continue providing collection allowance to licensees, the CTA can make a recommendation to the Board and request formal adoption of the collection allowance. The Board can also adopt the collection allowance on its own.

If, however, there is no interest in retaining the collection allowance, it is the opinion of this office that no formal action is necessary by either the CTA or the Board to remove it. This office recommends that written notice be mailed to all licensees stating that beginning on a certain date the collection allowance will no longer be provided. It is also recommended that the CCVB manual be updated to remove references to the collection allowance.


CONCLUSION

Based on the reasoning and analysis set forth above, it is the opinion of this office that a collection allowance, such as the 2% early payment allowance, is legal under Nevada law. But any such allowance, discount, or incentive must be adopted by the Board and not by the CTA. It is the opinion of this office that the collection allowance in Carson City was not properly established because it never received Board approval. The Board may opt to retain the 2% collection allowance by ratifying the CCVB manual. Alternatively, the collection allowance may be discontinued by providing notice to licensees that the allowance will no longer be offered and by updating the CCVB manual and associated forms.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

JASON D. WOODBURY
District Attorney

By: 
Benjamin R. Johnson
Deputy District Attorney

CC: Mayor Robert Crowell
Board of Supervisors
David Peterson, CTA Executive Director
CCTA Board of Directors