

Always Full, LLC Appeal of Assessed Transient Occupancy Tax (TOT), Interest and Penalties

Santa Barbara County Board of Supervisors
June 15, 2021

County of Santa Barbara
Treasurer- Tax Collector
LeAnne Hagerty, CPA

Overview

Santa Barbara County Transient Occupancy Tax (TOT) Ordinance (Code Chapter 32, Article II)

- Every hotel, motel, and vacation rental operator in the unincorporated areas of Santa Barbara County is required to collect the TOT from transients who stay for a period of thirty (30) consecutive days or less.
- Operators are required to register their vacation rentals with the County Tax Collector within thirty days after commencing business.
- If any operator fails to collect and remit the tax to the Tax Collector, then the Tax Collector is to gather facts and information that he is able to obtain, in order to determine and assess the tax, interest and penalties on the operator.

Overview

Treasurer-Tax Collector TOT Ordinance Enforcement

- Tax Collector's website has extensive information on TOT collection requirements.
- Conducts TOT audits primarily initiated by:
 - Change of ownership status – recently completed two such audits.
 - Due to public complaints – currently have three active audits.
- Sends penalty/interest assessment letters to operators due to late payment of TOT – these average 1 - 2 notices/month.
- Reviews various media to identify new vacation rentals or hotel closures.

Audit Overview

Always Full, LLC

- Audit covered period of Jan 2017 – Dec 2019
- Reviewed financial documents (some contained confidential information, so not all are provided at this hearing).
- Detail reports from VRBO & HomeAway showed that “tax” was included in the charges collected from transients. Airbnb information was not provided.
- Final determination – the amount due to the County is \$127,822.61.

Always Full, LLC Appeal Issues

Issue 1 :

Claim - Appellant claims that, as a resident of Los Angeles, she had no knowledge of the TOT and was never advised of it.

Response - The requirement to collect and remit TOT is published within County Code Chapter 32, which is available online. The County has no further legal duty to notify "hotel" operators of this responsibility.

Issue 2:

Claim - Appellant essentially argues that she was “singled out” for enforcement by the County, and therefore does not owe this TOT.

Response – The Always Full, LLC audit is the first of three recent audits of short-term rentals, initiated after the County received complaints about those rentals; and the Tax Collector has initiated many other TOT enforcements through letters that have resulted in payment.

Board Actions

Staff recommends that your Board take the following actions:

- A) Conduct a hearing on the appeal of the final determination of TOT, interest and penalties assessed by the Treasurer-Tax Collector on Always Full, LLC in the amount of \$127,822.61; and
- B) Uphold the Treasurer-Tax Collector's determination and deny the appeal request for the reduction or waiver of TOT, interest and penalties; and
- C) Adopt the findings proposed by the Treasurer-Tax Collector as follows:
 - 1. The amount due from Always Full, LLC is \$127,822.61, consisting of \$99,769.37 in Transient Occupancy Tax, \$19,765.74 in penalties, and \$8,287.50 in interest.
 - 2. This amount assessed against Always Full, LLC is immediately due and payable to the County of Santa Barbara Treasurer-Tax Collector upon the service of notice by the Clerk of the Board.
- D) Determine that the above actions involve government funding mechanisms and/or fiscal activities and are not a project under the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(4) of the CEQA Guidelines.