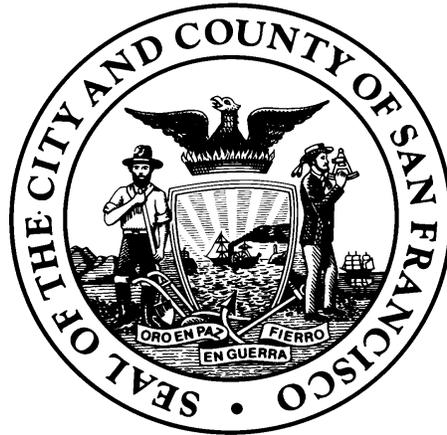


# CITY AND COUNTY OF SAN FRANCISCO

## TREASURER & TAX COLLECTOR'S OFFICE



### TAX COLLECTOR REGULATION No. 2007-1

#### TAX ON TRANSIENT OCCUPANCY OF HOTEL ROOMS – PERMANENT RESIDENT EXEMPTION

##### San Francisco Business and Tax Regulations Code

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

(b) Purpose. The purpose of this regulation is to clarify the Tax Collector's interpretation and tax treatment of the transient occupancy tax "permanent resident exemption." The transient occupancy tax is imposed under Article 7 of the San Francisco Business and Tax Regulations Code. This regulation addresses application of the "permanent resident exemption" where a person (including a business entity) and a hotel have made an agreement regarding occupancy of a guest room(s) by a person or that person's employee(s).

(c) Definitions. For purposes of this regulation the terms "operator", "occupant", "occupancy", "hotel", "guest room", "rent", and "permanent resident" are as defined in Section

501 of Article 7 of the Business and Tax Regulations Code; the term “person” is as defined in Section 6.2-15 of Article 6 of the Business and Tax Regulations Code; and the term “employee” is as defined in Section 6.2-9 of Article 6 of the Business and Tax Regulations Code. The term “Hotel Tax” means the tax on the occupancy of hotel guest rooms imposed under Article 7 of the Business and Tax Regulations Code. The term “permanent resident exemption” means the exemption from the Hotel Tax under Section 506(a) of Article 7 of the Business and Tax Regulations Code.

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

(e) Interpretation. The “permanent resident exemption” applies to occupancy of a hotel guest room by a person or that person’s employee(s) only when:

- (i) A person is a registered hotel guest; and
- (ii) That person or any of that person’s employees continuously occupy or have the right continuously to occupy the same room for 30 days or more.

Although an agreement between a person and a hotel may require that the person pay the hotel for a minimum number of “guaranteed” daily reservations for the person’s employees over a period of time longer than 30 days, such an agreement does not create any permanent resident exemption for any guest rooms, unless the above criteria (i)-(ii) are satisfied.

Dated: May 18, 2007