



**Appeal by United Resorts LLC,
dba “Budgetel Inn & Suites”, formerly, “America’s Best
Value Inn” and “Vagabond Inn” (collectively “UR LLC”),
located at 1525 McHenry Avenue**

**Re: Transient Occupancy Tax (TOT)
August, 2008 to January 30, 2015**

Background



- On November 17, 2014, an appeal hearing was conducted by the City of Modesto Tax Administrator, Gloriette Genereux, to take evidence, hear argument and subsequently rule on UR LLC's challenge to the City of Modesto's position that UR LLC owed \$106,623.50 in outstanding TOT and penalties.
- On January 30, 2015, Ms. Genereux ruled that \$101,304.28 in TOT and penalties was then due and owing. UR LLC then pursued the instant appeal to the City Council, contending that the City failed to present sufficient evidence to prove the amount of the tax owed or that UR LLC had committed fraud.

Relevant Provisions of Modesto Municipal Code



- **8-2.601 – Title**

- This tax shall be known as the “Uniform Transient Occupancy Tax of the City of Modesto.”
- “Transient” is defined as a person who occupies or who is entitled to occupy a hotel room for 27 consecutive calendar days or less.

Relevant Provisions of Modesto Municipal Code



- **8-2.603 - Tax Imposed**

- Commencing July 1, 1987, a tax in the amount of nine (9) percent of the rent charged by the operator
 - Example: \$70,000 @ 9% = \$6,300

Relevant Provisions of Modesto Municipal Code



- **8-2.607 - Reporting and Remitting**

- All taxes collected by operators pursuant to this Article **shall be held in trust** for the account of the City until payment thereof is made to the Tax Administrator.
- The full amount of the tax collected shall be remitted to the Tax Administrator at the time the operator files its return. (UR LLC was required to file a return monthly.)

Relevant Provisions of Modesto Municipal Code



- **8-2.608 - Penalties**

- (a) Delinquency. Any operator who fails to remit any tax imposed by this article within the time required shall, in addition to the amount of the tax, pay a penalty of five (5) percent of the amount of the tax per month or fraction thereof until paid; the maximum penalty imposed on any one delinquency shall not exceed twenty-five (25) percent of the amount of the tax.
- (b) **Fraud**. If the Tax Administrator determines that the non-payment of any remittance due from any transient or operator under this article is due to **intentional non-payment or fraud**, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subparagraph (a) of this section.
- (c) Penalties Merged with Tax. Every penalty imposed under the provisions of this section shall become a part of the tax herein required to be paid.

Monthly Report Provided by Hotel



DAILY REPORT FOR
America's Best Inn - Modesto
1525 McHenry Ave Modesto CA 95350
209-521-6340
www.americasbestfranchising.com
Printed: 8/25/2014 - 9:43am

Page #: 1

Date : 06/30/2014

Month Reported

MISCELLANEOUS BREAKDOWN

RM DEP	RM ADJUS	GUEST RE	PET FEE	PHONE DE	MISC				
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	TOTAL 0.00

OCCUPANCY SUMMARY

	No. of Days	Total Rooms	Occupancy Rate	Avr. Daily Rate
Today	1	54	55%	46.06
Month to Date	30	1722	58%	43.85

TAX EXEMPT SUMMARY

	No. of Days	Total Rooms	Tax Exempt Room Rental
Today	1	1	45.00
Month to Date	30	30	1240.00

Exempt from taxes

*** NO CASH REGISTER SALES ***

SUMMARY TAX BREAK DOWN

City					TOTAL
219.88	0.00	0.00	0.00	0.00	219.88

BILLING REPORT

Billings Made	Billings Paid	Net Billings
174.40	0.00	174.40

ADVANCE DEPOSIT REPORT

	Deposit Balance	Deposits Made	Deposits Used	New Balance
Today	0.00	0.00	0.00	0.00
Month to Date	0.00	0.00	0.00	0.00

[Made today: 0 / Used today: 0 / No-Shows: 0]

SUMMARY


	Balance	Today's Charges					Today's Payments				Balance
		Room Rental	Tele-phone	Misc.	Tax	Total Charges	Cash	Credit	Accts. Rec.	Total Amount	
Today	9483.93	2487.20	0.00	0.00	219.88	2707.08	2127.16	509.25	174.40	2810.81	9380.20
Month	5982.15	75422.89	0.00	0.00	6678.51	82101.40	41597.11	11835.53	25324.91	78757.55	9326.00

Total Room Rent Collected

Total Tax Collected

City of Modesto – TOT Form





CITY OF MODESTO
TRANSIENT OCCUPANCY TAX
MONTHLY REPORT

June 1, 2014 to June 30, 2014

INSTRUCTIONS

- Monthly reports and payments are delinquent unless they are either paid in our office or postmarked by the 15th day of the month following the month for which the tax is due.
- Penalty: 5% times number of months or fraction of month of delinquency to a maximum of 25% of tax due.
- Even if there is no tax due, a return must be filed with the Finance Department.

INFORMATION

No. of Rooms _____ Percent of Occupancy _____

CHANGE OF OWNERSHIP must be filed and reported immediately to the Finance Department.

IF BUSINESS IS DISPOSED OF OR SUSPENDED, FINAL RETURN must be filed and tax due paid within 30 days.

IF THIS A FINAL RETURN, check here _____

Make checks payable to:
CITY OF MODESTO
P. O. BOX 642
MODESTO, CA 95353

Return original to the City of Modesto.
 Retain duplicate copy for your records.

I hereby certify that the statements made hereon are correct.

Americas Best Inn/United Resorts LLC
 Business Name

 Signature

CEO 11/24/14
 Title Date

CALCULATION OF TAX

- Gross Rent for Occupancy of rooms
 \$ 75,422.89
- LESS ALLOWABLE DEDUCTIONS:
- Rent for occupancy by permanent residents (those who have signed an agreement to rent for more than 27 consecutive days).
 \$ _____
- Rent covered by Exemption Certificates. Copy required. ****SEE BACK FOR FURTHER INFORMATION.****
 \$ 1,240.00
- Total Allowable Deductions:
 (Line 2 plus line 3) \$ 1,240.00
- Taxable Rents:
 (Line 1 less line 4) \$ 74,182.89
- Tax: (9% of line 5)
 25%
 \$ 6,676.46
- Penalty: (If applicable)
 (See No. 2 Instructions) \$ 1,669.13
- Total Tax:
 (Add lines 6 & 7) \$ 9,345.58

PLEASE DO NOT WRITE BELOW

VALIDATE:

Document signed by operator

P. M. DATE _____
 Invoiced for penalty: \$ _____
 Date _____

-OVER-

Today's Hearing



- Council will consider the TOT amount owned by UR LLC on November 17, 2014.