

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.



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.



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



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.)



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



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
1			<i>t</i>			4				TOTAL
	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

OCCUPANCY SUMMARY

	No. of Days	Lotal 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	. I	
Today	1	1	45.0	o	
Month to Date	30	30	1240.0	0	Exempt from taxes

*** NO CASH REGISTER SALES ***

SUMMARY TAX BREAK DOWN

1	City					TOTAL
1	219.88	0.00	0.00	0.00	0.00	219.88

BILLING REPORT

1	Billings Made	Billings Paid	Net Billings
ſ	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]									

Total Room Rent Collected

SUN	MARY		/		_		/∟					
			To	day's Charg	ges				Today's I	Payments		
	Balance	Room Rental	ele- one	Misc.	Tax	1	Total Charges	Cash	Credit	Accts. Rec.	Total Amount	Balance
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

City of Modesto – TOT Form





No. of Rooms

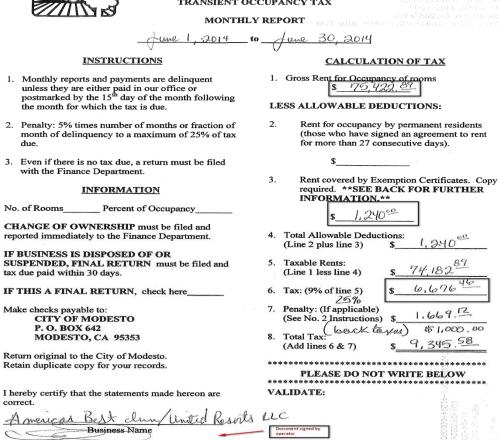
Make checks payable to:

CEO

P. O. BOX 642

CITY OF MODESTO

TRANSIENT OCCUPANCY TAX



P. M. DATE Invoiced for penalty: \$

-OVER-

Date

Today's Hearing



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