



San Bernardino County

Legislation Text

File #: 825, Agenda Item #: 17

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

August 20, 2019

FROM

ENSEN MASON, Auditor-Controller/Treasurer/Tax Collector

SUBJECT

Amendment No. 1 to Voluntary Collection Agreement with Airbnb for the Collection and Remittance of Transient Occupancy Tax

RECOMMENDATION(S)

Approve Amendment No. 1 to Voluntary Collection Agreement No. 18-424 with Airbnb Inc. for the collection and remittance of transient occupancy taxes, adding a provision for Registered Hosts remitting their applicable transient occupancy taxes directly to the County, with no change to the contract term.

(Presenter: Ensen Mason, Auditor-Controller/Treasurer/Tax Collector, 382-7000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Operate in a Fiscally-Responsible and Business-Like Manner.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies.

FINANCIAL IMPACT

Approval of this amendment will not impact Discretionary General Funding (Net County Cost). This amendment includes provisions that will allow professional hosts to more efficiently comply with the County's transient occupancy tax (TOT) ordinance. As a result, it is not anticipated that this amendment will generate a change in TOT revenue collected by the County.

BACKGROUND INFORMATION

California Revenue and Taxation Code §7280 affords the County the ability to levy a tax for the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days. The tax, when levied by the legislative body of a county, applies only to the unincorporated areas of the county. The Tax Collector (ATC) is responsible for the collection of TOT from owners (operators), including vacation/part-time rental agencies, in the County.

Per County Code §14.0203, each transient is subject to and shall pay TOT in the amount of 7% of the rent charged by the operator for the privilege of occupancy in any hotel, motel, bed and breakfast, or any other structure intended for occupancy by individuals for dwelling, lodging, or sleeping purposes for a period of 30 consecutive calendar days or less. This also applies to rentals managed through internet-based platforms such as Airbnb Inc. (Airbnb) and Vacation Rental by Owner. The operator shall file a return to ATC indicating

the total rents charged and received, and the amount of tax collected for transient occupancies. The operator must remit to ATC the amount of TOT collected for these short-term rentals as reported on their return.

On July 10, 2018 (Item No. 13), the Board of Supervisors (Board) approved Voluntary Collection Agreement No. 18-424 with Airbnb to collect and remit transient occupancy taxes on behalf of third-party individuals and entities that utilize Airbnb's online booking platform for short-term lodging in the unincorporated areas of San Bernardino County, effective August 1, 2018, until terminated. Since the effective date, Airbnb has been facilitating the reporting, collection, and remittance of applicable TOT imposed under County Code §14.0203 on behalf of its hosts, and submitting a single quarterly return to ATC.

Subsequent to entering into the VCA with the County of San Bernardino, Airbnb's business model has evolved and their host community has expanded. In order to remain competitive, Airbnb has implemented a new optional software feature to enable certain professional hosts (e.g. bed and breakfast lodges, boutique hotels, and professional property managers) to have more control over their taxes by remitting applicable TOT and sales taxes owed directly to the appropriate taxing jurisdiction. Only Registered Hosts will be eligible to use this optional feature.

Amendment No. 1 to Voluntary Collection Agreement No. 18-424 with Airbnb outlines the terms for Registered Hosts implementing Airbnb's new optional software feature. Registered Hosts will be required to provide Airbnb its applicable TOT identification or registration number; applicable business identification number (e.g., Employer Identification Number); and acknowledgement of its obligation to collect all taxes owed, and to remit and report any taxes collected directly to the taxing jurisdiction (ATC). Additionally, ATC may request from Airbnb, not more than once per consecutive 12-month period, copies of documentation related to Registered Hosts to validate the information provided.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Robert F. Messinger, Principal Assistant County Counsel, 387-5455; and Jason Searles, Deputy County Counsel, 387-5455) on July 18, 2019; Land Use Services (Terri Rahhal, Director, 387-4431; and Andy Wingert, Code Enforcement Chief, 387-8178) on July 23, 2019; Finance (Carl Lofton, Administrative Analyst, 387-5404) on August 2, 2019; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on August 5, 2019.