

# Transient Occupancy Tax (TOT) Short-term Vacation Rentals Questions & Answers

## **Who must pay Transient Occupancy Tax (TOT)?**

*The short-term vacation rental guest (transient) must pay the TOT.*

## **When does TOT become effective?**

*It becomes effective & collectible from any transient occupying a short-term vacation rental on or after January 1, 2009*

## **What is the definition of a transient?**

*A transient is any person who exercises occupancy in a short-term vacation rental for a period of thirty consecutive calendar days or less. Any person exercising occupancy for 31 days or more is not considered a transient and is not subject to TOT.*

## **How much TOT should the transient pay?**

*The transient pays ten percent (10%) of the rent charged as TOT.*

## **What are the owner/manager's duties for collecting TOT?**

*Transient Occupancy Tax (TOT) is due and reportable to the City for the time period the transient occupies the short-term vacation rental. The owner/manager is responsible for collecting the tax and submitting it to the City with a TOT report by the due date.*

## **When are TOT payments and the report due?**

*The Municipal Code was recently changed allowing for the reporting and payment of TOT for short-term vacation rentals each calendar quarter. In order to timely file, the TOT Report and payment must be received by the City or post marked before the last day of subsequent month following the close of each quarter as follows:*

<b>Reporting Period</b>	<b>Due Dates</b>	<b>Delinquent On</b>
Jan, Feb, March	April 1-30	May 1
Apr, May, June	July 1-31	August 1
July, Aug, Sept	October 1-31	November 1
Oct, Nov, Dec	January 1-31	February 1

**Are penalties imposed for late payments?**

*Yes, a penalty of 10% of the tax is imposed if the tax is received or post marked on or after the delinquent date. If the payment remains delinquent for a period over 30 days following the delinquency date, a second delinquency penalty of 10% of the tax is imposed.*

**What if it is not a renter, but a family member or friend using our rental? Do we have to pay TOT?**

*If you have allowed a family member or friend to occupy your short-term rental without charging any consideration, or in exchange for any goods or services, the family member or friend does not have to pay TOT.*

**Are there any exemptions from TOT such as signed contracts dated prior to January 1, 2009 which did not impose TOT, or deposits collected prior to 1/1/09?**

*TOT did not become effective until January 1, 2009. If the signed contract or collected deposit was for a guest occupying the short-term rental prior to January 1, 2009, TOT is not required to be collected. If the transient is occupying the short-term rental on or after January 1, 2009, TOT is effective and the transient is responsible for the TOT.*

**Should TOT be collected at the same time as a deposit in 2009?**

*Collecting TOT at the same time as the deposit is collected is at the discretion of the owner/manager. A deposit is not subject to TOT. TOT is due and payable at the time the transient occupies the short-term vacation rental and the deposit is converted to rent.*

**Can we pay online?**

*At this time the City doesn't have the capabilities to accept online payments and tax reports. The City does accept faxed tax reports and credit card payments via the telephone.*

**Are condos allowed to be rented as a short term vacation rental?**

*Condos may not be rented as short-term vacation rentals.*

**Do TOT forms need to be sent in even if we have not rented out our house for the month?**

*Short-term vacation rentals are required to submit a TOT report and any taxes due to the City on a quarterly basis instead of monthly. If your house is registered as a*

*short-term vacation rental, you are required to submit a TOT report to the City for each calendar quarter even if there is no tax due to the City.*

**In the case of home trading/swaps, do we have to pay TOT?**

*If the occupant is a transient occupying the short-term rental for 30 days or less on or after January 1, 2009, the transient is responsible to pay the TOT based on the FMV of the rent.*

**Why is a blue TOT registration form required? We have already registered as a short-term vacation rental.**

*If you have already registered as short-term vacation rental, you are also required to register for TOT with the Finance Department. Besides providing the contact information for both the owner and the manager, the form provides the City with the contact information of the party responsible for completing the quarterly TOT reports and submitting the tax payment.*

**Will the City notify us when TOT is due?**

*The City doesn't send out reminder letters when TOT reports and taxes are due. The City will send notification letters when TOT reports and payments are delinquent.*

**How often is sand replenished?**

*Sand was last replenished in 2012. The City of Encinitas is currently working on the USACE (United States Army Corp of Engineers) Coastal Storm Damage Reduction Project which will provide beach nourishment for 50 years.*

**Can the 2% TOT earmarked for sand replenishment be used for beach clean-up?**

*No, it can only be used for sand replenish and projects or studies to preserve the sand on the beach.*