

DATE ISSUED: February 21, 2002 REPORT NO. 02-041  
ATTENTION: Rules, Finance, & Intergovernmental Relations Committee  
Agenda of February 27, 2002  
SUBJECT: Municipal Code Section 35.0111 *Transient Occupancy Tax Exemptions*

### SUMMARY

Issue - Should the City Council amend Municipal Code Section 35.0111 to reflect an increase in the room rental charge amount exempt from Transient Occupancy Tax (TOT) from \$20 per night to \$25 per night?

Manager's Recommendation - Amend the Municipal Code to increase the TOT exemption to include all accommodations rental charges that are \$25 or less per night.

Other Recommendations - None.

Fiscal Impact – Although we cannot track the revenues received from accommodations between \$20 and \$25 only, we estimate that the fiscal impact will be a reduction of approximately \$100,000-150,000 in TOT revenue each fiscal year. This reduction would be split between the General Fund and Special Promotional Programs at approximately 52.4% and 47.6%, respectively.

### BACKGROUND

During the Rules, Finance, & Intergovernmental Relations Committee meeting of October 10, 2001, the City Manager was directed to provide a report back to the Committee regarding an increase in the room rental charge amount exempt from TOT, for the benefit of transients who rent rooms for less than one month. There have been no adjustments to this amount since February 22, 1989 at which time the average room rate was \$66.44. Currently, the City's TOT rate is 10.5% and as of November 2001, the average room rate was \$106.12.

As stated in Municipal Code Section 35.0101, it is the purpose and intent of the City Council that there shall be imposed a tax on transients.

Exemptions to this tax include:

- (1) when the Transient has occupied the space for one month or more;

- (2) when the total space rental charge at the facility is twenty dollars (\$20) a day or less, or the accommodations rented are in a dormitory and the charge for each Transient is twenty dollars (\$20) a day or less; or
- (3) when the Transient is by treaty, federal law, or state law exempt from payment of transient occupancy taxes; or
- (4) when the Hotel Rents are directly paid by the United States Government, the State of California, or their instrumentalities. (This does not exempt persons employed by the entity from payment of the tax if the payment is to be reimbursed by the entity.)

DISCUSSION

Properties with some daily rates at or below \$25 per night that could be subject to TOT comprise a small percentage of the total TOT properties in the City of San Diego. According to data collected by the San Diego Housing Commission in December 2000, there are approximately 94 single room occupancy (SRO) accommodations in the City. SRO hotel rooms are defined by Municipal Code Section 113.0103 as a guest room in a SRO hotel that is at least 70 square feet but not more than 220 square feet which may have private or shared sanitary facilities but does not contain a kitchen.

SRO rates/night	Under \$20	\$20-25	\$25-\$35	Over \$35	<b>Total</b>
Number of facilities	80	8	4	2	<b>94</b>

Eight of the 94 SRO's have rates of \$20-25. Four additional facilities have rates between \$25-35, and two have rates over \$35 per day. The other 80 facilities charge less than \$20 per day. If the exemption for facilities charging \$25 or less per night is approved, the additional eight facilities to be exempted will bring the total estimated number of facilities having some or all of their accommodations exempted from paying TOT to approximately 88. In addition to SRO accommodations, properties such as Campgrounds and Recreational Vehicle Parks often qualify for the TOT exemption under Municipal Code Section 35.0111.

Currently, no TOT may be charged for accommodations at a daily rate of \$20 or less. In the intervening 12 years since this exemption was approved, inflation, utility rates and other service items have forced some merchants to increase the charges for accommodations above the \$20 exemption rate. Many tenants that seek out accommodations with these low rates are on fixed or very low incomes, making it difficult to pay the additional 10.5% TOT per night. Similarly, they may be unable to pay an upfront monthly rate, which would relieve them from TOT pursuant to Municipal Code Section 35.0111 (b). The exemption was originally provided as an affordable housing option for low-income occupants and should be updated accordingly.

There are two other comparable cities with similar TOT exemptions. San Francisco exempts any accommodations with rates of \$30 per day or \$100 per week or less. The exemption code was last amended in December of 2000. The TOT rate in San Francisco is 14% and the average room rate is \$161.28. In Los Angeles, the average room rate is \$97.11, the TOT rate is 14.5% and their exemptions

apply to rates of \$2 per day or less. The exemption code was last amended in January of 1990. Other cities surveyed include Anaheim, San Jose and Phoenix. None of these cities make any exemptions based on the accommodation rental charge.

An increase in the TOT exemptions could cause an unknown impact on rates for single room occupancy and other accommodations. Merchants could use this opportunity to raise their rates and maintain exemption from TOT. Therefore, the benefit to the tenants could be reduced. For this reason, and because the City of San Diego compares favorably with the surveyed cities, the City Manager recommends a modest, but fair increase to the TOT exemption at this time. In addition, to ensure that a fair exemption is maintained over time, it is recommended that Municipal Code Section 35.0111 be reviewed every five years and recommendations for adjustments to the exemptions be submitted to the Committee, if necessary.

If approved, this item will be introduced to the full City Council, and will require a second reading two weeks after introduction. If adopted, the amendment could go into effect as soon as 30 days after the second reading.

#### ALTERNATIVES

Alternative A - Amend the Municipal Code to increase the TOT exemption to include all accommodations rental charges that are \$30 or less per night.

Alternative B - Amend the Municipal Code to increase the TOT exemption to include all accommodations rental charges that are \$35 or less per night.

Respectfully submitted,

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LISA IRVINE  
Financial Management Director

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Approved: PATRICIA T. FRAZIER  
Deputy City Manager