

## **8 Car Rental Tax (8.750 to 8.768)**

### **8.750 Title**

This subchapter may be referred to as the City of Medford Rental Car Tax.

[Added, Sec. 1, Ord. No. 2005-119, June 16, 2005.]

### **8.751 Definitions**

Except where the context otherwise requires, the following definitions govern the construction of this ordinance.

(1) "Rental Car" includes, without limitation, all automobiles; pickups and any motorized passenger vehicles which are capable of being used on the highways of Oregon, offered by an operator under this code. Excluded are vehicles designed and used primarily for the transportation of property.

(2) "City Council" means the City Council of the City of Medford, Oregon.

(3) "Commercial Establishment" means any person or other entity who generates gross revenues by providing rental cars for a rental fee at the Rogue Valley International-Medford Airport.

(4) "Operator" means any person operating a commercial establishment

(5) "Renter" means a natural person, sole proprietorship, partnership, joint venture, association, corporation estate, trust or any other entity in the name of which a motor vehicle is rented under this subchapter.

(6) "Rental or Renting" means obtaining at the Rogue Valley International-Medford Airport the use of a rental car from a commercial establishment at the Rogue Valley International-Medford Airport for a rental fee. Excluded are leases or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity, fees or charges for fueling, car seats, GPS devices, satellite radio, and similar devices, supplies and commodities. If the rental originates at the Rogue Valley International-Medford Airport but the rental fee is collected at some other location outside the City of Medford, the operator who provided the rental car at the Rogue Valley International-Medford Airport shall be responsible for remittance of the tax, based on the total rental fee, wherever collected.

(7) "Rental Fee" means the gross fee, whatever the basis of its calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

(8) "Tax" means either the tax payable or due by the person, operator or commercial establishment during the reporting period.

(9) "Transacting Business" means a commercial establishment's solicitations to rent rental cars via the printed or telecommunications media, or arrangements for or obligation of payment for rental of a rental car.

[Added, Sec. 2, Ord. No. 2005-119, June 16, 2005; Amd. Sec. 1, Ord. No. 2016-100, August 18, 2016.]

### **8.752 Tax Imposed**

For the privilege of renting a rental car, on and after November 1, 2013, each renter shall pay a tax in the amount of twelve and one-half percent (12.5%) of the gross rent charged by the operator. The tax constitutes a debt owed by the renter to the city which is extinguished only by payment to the operator or to the city. The renter shall pay the tax to the operator at the time the rent is paid. The operator shall enter the tax on its records when rent is collected if the operator keeps records on the cash accounting basis; and when earned if the operator keeps records on the accrual accounting basis. If the rent is paid in installments, a proportionate share of the tax shall be paid by the renter to the operator with each installment. If for any reason the tax due is not paid to the operator of the commercial agency, the Finance Director may require that such tax shall be paid directly to the city. In all cases, the rent paid or charged for rental shall exclude the sale of any goods, services and commodities other than the furnishing of rental cars.

[Added, Sec. 3, Ord. No. 2005-119, June 16, 2005; Amd. Ord. No. 2013-137, Oct. 3, 2013.]

### **8.753 Collection of Tax by Operator; Rules for Collection**

(1) Every operator renting rental cars for a rental fee in this city, the rental of which is not exempted under the terms of this ordinance, shall collect a tax from the renter. In addition to being property of the City held in trust by the operator, the tax collected or accrued by the operator constitutes a debt owing by the operator to the city. Nothing provided herein shall allow the city to collect double the tax from any single rental.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until creditors are paid or deferred payments are made.

(3) The Finance Director shall enforce provisions of this ordinance and shall have the power to adopt rules and regulations not inconsistent with this ordinance as may be necessary to aid in the enforcement.

(4) The rate imposed by section 8.752 shall be rounded to the nearest whole cent.

[Added, Sec. 4, Ord. No. 2005-119, June 16, 2005.]

### **8.754 Operator's Duties**

Each operator shall collect the tax imposed by this ordinance at the same time as the rent is collected from every renter. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a commercial agency shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this ordinance.

[Added, Sec. 5, Ord. No. 2005-119, June 16, 2005.]

### **8.755 Exemptions**

No tax imposed under this ordinance shall be imposed upon:

- (1) A rental fee which Oregon or Federal law exempts from the tax.
- (2) A travel trailer, camper or motor home, as defined in ORS 366.512, whose registration fee is allocated to counties pursuant to ORS 390.134(4).
- (3) Excluded are vehicles designed and used primarily for the transportation of property.

[Added, Sec. 6, Ord. No. 2005-119, June 16, 2005.]

### **8.756 Registration of Operator; Form and Contents; Execution; Certification of Authority**

Every person engaging or about to engage in business as an operator of a rental car company in this city shall register with the Finance Director on a form provided by that office. Operators engaged in business at the time this ordinance is adopted must register not later than thirty (30) calendar days after this adoption. Operators starting business after this ordinance is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of the place or places of business and such other information to facilitate the collection of the tax as the Finance Director may require. The registration shall be signed by the operator. The Finance Director shall, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Finance Director upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state

the place of business to which it is applicable and be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy. Said certificate shall, amount other things, state the following:

(a) The name of the operator;

(b) The address of the business;

(c) The date upon which the certificate was issued;

(d) "This Car Rental Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Car Rental Tax Ordinance of the City of Medford by registration with the Finance Director for the purpose of collecting from renters the car rental tax imposed by said City and remitting said tax to the Finance Director. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a commercial establishment without strictly complying with all local applicable laws including but not limited to those requiring a permit from any board, commission, department or office of the City of Medford. This certificate does not constitute a permit."

[Added, Sec. 7, Ord. No. 2005-119, June 16, 2005.]

#### **8.757 Due Date; Returns and Payments**

(1) The tax imposed by this ordinance shall be paid by the renter to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the Finance Director on a monthly basis on or before the last day of the month immediately following for the preceding month; and are delinquent if not paid by the due date.

(2) On or before the last day of each month a return for the preceding month's tax collections shall be filed with the Finance Director. The return shall be filed in such form as the Finance Director may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The Finance Director may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the Finance Director at his office either by personal delivery or by mail. If the return is mailed, the postmark date shall be considered the date of delivery for determining delinquencies.

(5) For good cause, the Finance Director may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted, except by

the City Council upon approval. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described elsewhere in this ordinance.

[Added, Sec. 8, Ord. No. 2005-119, June 16, 2005.]

### **8.758 Penalties and Interest**

(1) Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this ordinance prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of sixty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the Finance Director determines that the nonpayment of any remittance due under this ordinance is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (1) and (2) of this section.

(4) Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this ordinance shall pay interest at the rate of one percent per month or fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

(6) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated provided, however, the operator may petition the City Council for waiver and refund of the penalty or any portion thereof and the City Council may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

[Added, Sec. 9, Ord. No. 2005-119, June 16, 2005.]

### **8.759 Deficiency Determinations; Fraud, Evasion, Operator Delay**

(1) Deficiency Determination. If the Finance Director determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 16.808.

(a) In making a determination the Finance Director may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 16.808.

(b) The Finance Director shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail; if by mail, the notice shall be addressed to the operator at his address as it appears in the records of the Finance Director. In the case of service by mail of any notice required by this ordinance the service is complete at the time of deposit in the United States Post Office.

(c) Except in the case of fraud, intent to evade this ordinance or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final ten days after the Finance Director has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(2) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make, within the time provided in this ordinance, any report and remittance of said tax or any portion thereof required by this ordinance, or makes a fraudulent return or otherwise wilfully attempts to evade this ordinance, the Finance Director shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the Finance Director has determined the tax due that is imposed by this ordinance from an operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator the tax, interest, and penalties, provided for by this ordinance. In case such determination is made, the Finance Director shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the Finance Director of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten days after the Finance Director has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

(3) Operator Delay. If the Finance Director believes that the collection of any tax or any amount of tax required to be collected and paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay same determination to the Finance Director after service of notice thereof, provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten days from the date of service of notice by the Finance Director.

[Added, Sec. 10, Ord. No. 2005-119, June 16, 2005.]

### **8.760 Redeterminations**

(1) Any person against whom a determination is made under Section 8.759, or any person directly interested, may petition for a redetermination and redemption and refund within the time required in Section 8.759. If a petition for redetermination and refund is not filed within the time required therein, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the Finance Director shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten days notice of the time and place of the hearing. The Finance Director may continue the hearing from time to time as may be necessary.

(3) The Finance Director may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(4) The order or decision of the Finance Director upon a petition for redetermination of redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the City Council within the ten (10) days after service of such notice.

(5) No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

[Added, Sec. 11, Ord. No. 2005-119, June 16, 2005.]

### **8.761 Security for Collection of Tax**

(1) The Finance Director, whenever he deems it necessary to insure compliance with this ordinance, may require any operator subject thereto to deposit with him such security in the form of cash, bond, or other security as the Finance Director may determine. The amount of the security shall be fixed by the Finance Director but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such manner as the Finance Director deems proper, or Five Thousand Dollars (\$5,000), whichever amount is less. The amount of the security may be increased or decreased by the Finance Director subject to the limitations herein provided. As set forth in 8.766, the operator has a right to appeal to the City Council any decision of the Finance Director made under this section.

(2) Any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Finance Director may bring an action in the courts of this State, or any other state, or of the United States in the name of the City of Medford to collect the amount delinquent together with penalties and interest.

[Added, Sec. 12, Ord. No. 2005-119, June 16, 2005.]

### **8.762 Lien**

The tax imposed by this ordinance together with the interest and penalties herein provided and the filing fees paid to the County Clerk of Jackson County, Oregon, and advertising costs which may be incurred when same becomes delinquent as set forth in this ordinance shall be and, until paid, remain a lien from the date of its recording with the County Clerk of Jackson County, Oregon, and superior to all subsequent recorded liens on all tangible personal property (other than rental cars) used in the office of an operator within Medford and may be foreclosed on and sold as may be necessary to discharge said lien, if the lien has been recorded with the County Clerk of Jackson County, Oregon. Notice of lien may be issued by the Finance Director whenever the operator is in default in the payment of said tax, interest and penalty and shall be recorded with the County Clerk of Jackson County, Oregon and a copy sent to the delinquent operator. The personal property subject to such lien may be foreclosed on and sold as provided by law. Any lien for taxes as shown on the records of the proper County Official shall, upon the payment of all taxes, penalties, and interest thereon, be released by the Finance Director when the full amount determined to be due has been paid to the city and the operator or person making such payment shall receive a receipt therefor stating that the full amount of taxes, penalties, and interest thereon have been paid and that the lien is thereby released and the record of lien is satisfied.

[Added, Sec. 13, Ord. No. 2005-119, June 16, 2005.]

### **8.763 Refunds**

(1) Operators Refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the Finance Director under this ordinance, it may be refunded, provided a verified claim in writing therefor stating the specific reason upon which the claim is founded, is filed with the Finance Director within three years from the date of payment. The claim shall be made on forms provided by the Finance Director. If the claim is approved by the Finance Director, the excess amount collected or paid may be refunded or may be credited on any amounts due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors or assignees.

(2) Renter Refunds. Whenever the tax required by this ordinance has been collected by the operator, and deposited by the operator with the Finance Director, and it is later determined that the tax was erroneously or illegally collected or received by the Finance Director, it may be refunded by him to the renter, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with said Finance Director within three years from the date of payment.

[Added, Sec. 14, Ord. No. 2005-119, June 16, 2005.]

### **8.764 Collection Fee**

Every operator liable for the collection and remittance of the tax imposed by this ordinance may withhold five percent (5%) of the net tax due to cover the operator's expense in the collection and remittance of said tax.

[Added, Sec. 15, Ord. No. 2005-119, June 16, 2005.]

### **8.765 Administration**

(1) Park Dedication Fund. The Finance Director shall deposit all of the proceeds of the car rental tax as they are received into the Park Dedication Fund. The Park Dedication Fund shall be used for the purpose of financing capital improvements within the Leisure Services Plan for the City of Medford for development of park facilities.

(2) Records Required from Operators; Form. Every operator shall keep accounting books and records of the rentals. All such records and books shall be retained by the operator for a period of three years and six months after they come into being.

(3) Examination of Records; Investigations. The Finance Director or any person authorized in writing by him may examine during normal business hours, the books, papers and accounting records relating to rentals of any operator after notification to the operator liable for the tax and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid. To assist in this process, the Finance Director may request certified copies of annual tax returns covering operator.

(4) Confidential Character of Information Obtained - Disclosure Unlawful. It shall be unlawful for the Finance Director or any person having an administrative or clerical duty under the provisions of this ordinance to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person required to obtain a Car Rental Tax Registration Certificate, or pay a car rental tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person, provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment by another City of Medford official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this ordinance; or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest, and penalties; further provided, however, that the city attorney approves each such disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby;

(c) The disclosure of the names and addresses of any persons to whom Car Rental Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the city.

[Added, Sec. 16, Ord. No. 2005-119, June 16, 2005.]

### **8.766 Appeals to City Council**

Any person aggrieved by any decision of the Finance Director may appeal to the City Council of the City of Medford pursuant to Medford Code 1.025.

[Added, Sec. 17, Ord. No. 2005-119, June 16, 2005.]

### **8.767 Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional (or otherwise invalid), such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The legislative body hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the

fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional (or otherwise invalid).

[Added, Sec. 18, Ord. No. 2005-119, June 16, 2005.]

### **8.768 Violations**

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Finance Director or to render a false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this ordinance.

[Added, Sec. 19, Ord. No. 2005-119, June 16, 2005.]