

TOML

Transient Occupancy Tax

Audit Procedures

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Mammoth Lakes™
CALIFORNIA

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Section 1: The Basics

Introduction

Transient Occupancy Tax (TOT) is an essential component of the Town's funding mechanisms and makes up approximately 60% of the General Fund, providing for services such as snow removal, recreational programming, and road maintenance. The Town of Mammoth Lakes is responsible for the collection of transient occupancy taxes and has established a staff team dedicated to providing effective TOT enforcement and revenue collection services.

This TOT audit procedural manual provides detailed information regarding the purpose, process, and requirements of an audit as well as staff protocols employed by the Town of Mammoth Lakes during Transient Occupancy Tax audits. It is informed by the [American Institute of Certified Public Accountants](#)' (AICPA) *Statement on Auditing Standards (SAS) No. 39* and the "Yellow Book" also known as the *Government Auditing Standards* published by the [United States Government Accountability Office](#).

This manual will provide:

- Useful information regarding TOT collection, remittance, and enforcement;
- An overview of the purpose of audits and the audit process;
- An explanation of the Town's audit policies and procedures;¹
- A reference section which includes a glossary, appendices, and important forms for remitters.

Town staff is committed to providing information to help operators comply with the Town requirements and policies. Staff members are available Monday through Friday from 8:00 AM to 5:00 PM to answer any questions regarding TOT and TOT audits. Please feel free to contact staff via email at tot@ci.mammoth-lakes.ca.us or by leaving a message on the TOT Hotline: (760) 934-8989 x275. TOT information can also be found on the web at: <http://www.ci.mammoth-lakes.ca.us/index.aspx?NID=201>.

Transient Occupancy Tax (TOT)

Transient occupancy tax, or TOT, is a 13% tax that is charged "for the privilege of occupancy of any transient occupancy facility" (Municipal Code § 3.12.040). The tax is required to be paid by the guest to the operator of the transient occupancy facility at the time the rent is paid. It is the operator's responsibility to remit the TOT to the Town.

In order to begin remitting TOT to the Town, you must first complete both a Business Tax Certificate application and a Transient Occupancy Tax Certificate application. Please see the Town of Mammoth Lakes website at www.ci.mammoth-lakes.ca.us for more information.

¹ Please note that the actual procedures employed during specific audits will depend on the records available and the type of transient facility being audited.

TOT Audits

An audit is an official examination and verification of financial accounts and records as they pertain to the tax returns under review. State statutes allow for the auditing of records up to four years prior. The Town's legal counsel has recommended that staff only audit up to three years prior. The Town of Mammoth Lakes conducts both in-house and on-site audits of its more than six hundred (600) TOT remitters.

There are two (2) types of TOT remitters:

- Monthly: A monthly remitter receives gross rents of **more than** \$10,000 annually.
- Quarterly: A quarterly remitter receives gross rents of **less than** \$10,000 annually.

Audit Types

- **On-site Audits:** are conducted at the place of business of remitters. During an on-site audit, the operator, owner, or on-site manager must be available throughout the audit process to answer any questions or to provide additional information.
- **In-house Audits:** are conducted in the Town offices. For an in-house audit, remitters submit their financial documents to Town staff who then conducts the audit in the Town office.

Both types of audits can take between three and five days to complete. While the Audit Team may collect enforcement tips in the process of an audit, it is not the primary goal of an audit and should not take time away from the essential audit procedures. Any tips received through the course of an audit should be followed up on in accordance with the Town's enforcement policies (see TOT Enforcement Procedures).

The Objectives of an Audit

1. To determine whether the operator is in compliance with the Town's Transient Occupancy Tax Ordinance §3.12.
2. To determine whether revenues reported in the tax returns agree with the general ledger and are supported with source documents.
3. To perform the audit in accordance with generally accepted auditing standards and generally recognized sampling techniques in order to yield a fair and impartial result in accordance with the normal conditions of the business.
4. To educate operators regarding Transient Occupancy Tax reporting, collection, and enforcement efforts.

5. To perform the audit in the most efficient manner.

How the Town Schedules Audits

In accordance with the Municipal Code §3.12.030.E, the Town may audit TOT records at any time by giving ten (10) days' written notice to the Operator; however, the Town recognizes the value of its lodging partners and will make reasonable attempts to accommodate the Operators' needs when scheduling audits.

In consideration of the nature of seasonal business cycles for distinct facilities such as hotels and campgrounds, staff will attempt to schedule audits during the shoulder seasons for these businesses. Staff will make an effort to schedule audits for hotels and condo management companies during the 2nd (April - June) and 3rd (July - September) quarters while campgrounds and summer-oriented businesses should be audited during the 1st (January – March) and 4th (October – December) quarters. While this schedule is ideal, the Town has a responsibility to perform audits on a regular, ongoing basis.

Small, owner-operated rentals of single units will be scheduled throughout the year and performed at the Town offices.

The first contact with the Operator occurs after initial pre-audit research and review has been completed by the Audit Team. An Assistant Auditor prepares a letter for the Lead Auditor's signature. The Lead Auditor then sends out an Initial Letter with a request to schedule the audit at least one month in advance. It is desirable that the letter is sent out two months in advance. A phone call is also recommended. If the original date is not convenient for the Operator, the Lead Auditor will reschedule and send a confirmation letter with the mutually agreed upon date. A signed copy of the letter should be uploaded to the electronic file folder as well as included in the "Opening" section of the Audit Binder or folder (see Appendix C: Sample Initial Letter, p. 25).

Taxable Items

In addition to the rent paid for each night of a transient stay (31 days or less) other fees are also subject to TOT. Any **required** fee that a guest must pay in order to stay at your facility is taxable. This includes but is not limited to:

- Rent
- Cleaning fees
- Extra person fees
- Pet fees
- Resort fees
- Linen fees
- "No Show" forfeited deposits
- Late Check-Out fees

For a more detailed list of taxable items please see Appendix B: Examples of Taxable Items (p. 24) or for specific questions please contact the Finance Department at 760-934-8989 x247.

The Audit Process: A Summary of Events

This manual should act as a guide through the audit process. Each section of the manual will discuss these processes in detail. The steps of an audit include:

Audit Assignment and Background Research

- Town staff examines tax returns from the Operator for the audit period
- Online research is conducted to check for tax advertised and mandatory fees

Schedule the Audit

- Staff sets the date of the audit
- Staff sends an Initial Letter to the Operator

Entrance Conference

- Staff meets with Operator, Owner, or On-site Manager to discuss accounting procedures, record-keeping, and any questions or concerns

Field Work Begins

- Staff reconciles submitted tax returns with monthly rents
- Staff reconciles daily rent totals with monthly rents
- Staff samples daily folios to reconcile that taxable items are being taxed

Exit Conference

- Staff meets with the Operator, Owner, or On-site Manager to generally discuss any findings, recommend suggestions for the future, and answer any questions

Final Letter

- Staff sends a Final Letter which details audit findings and recommendations for the future
- The letter may include a tax assessment of owed taxes or a refund for overpayment

Appeal to the Tax Collector

- If the Operator disagrees with the findings in the Final Letter, he or she has 10 days to appeal in writing to the Tax Collector
- The Tax Collector will schedule a hearing at which time the Operator can present additional evidence that supports the Tax Returns
- The Tax Collector issues a Notice of Determination

Appeal to the Town Council

- If the Operator still disagrees with the Tax Collector's Notice of Determination, the Operator may appeal in writing to the Town Council via the Town Clerk within 15 days
- The Town Council will hear the case and make a final determination

Auditable Documents

The Initial Letter details examples of the documents that the Audit Team will examine during an audit. These include but are not limited to:

- Registration records, contracts, or receipts (e.g. folios);
- Availability calendars, correspondence with guests, copies of checks, etc.;
- Housekeeping Service Records to reconcile occupancy rates;
- 30+ day contracts, deposits, and payments;
- General Ledgers, lodging system records, and reports (e.g. daily worksheets, weekly worksheets, monthly summary ledgers, etc.);
- Exemption claim forms and supporting documentation, if any;
- Worksheets supporting preparation of TOT returns; and
- Monthly bank statements and/or other tax returns.

If records are not available or are insufficient, then the following may be used:

- **Bank statements**
 - The Operator's bank statements may be used to obtain gross taxable receipts by adding the deposits for each period. When bank statements are used, an allowance should be made for deposits verified as non-receipts.
- **Estimated deficiency**
 - If records are not available, then the Operator's return must be estimated. To establish an estimate, the auditors will use room capacity, average room rate (ADR), and the Town's established TOT trend line.

If records are deemed in-auditable, the Audit Team will advise the Operator of the next steps which could include:

- An estimation of the Operator's return, established using room capacity, ADRs, and average Town occupancy;
- Provision of record-keeping recommendations;
- A second audit in 3, 6, or 12 months.

The Audit Team will examine *any* back-up documentation that supports how a TOT return was completed. This includes daily, weekly, monthly, and/or quarterly total rents and/or tax reports. The Town cannot require or suggest specific accounting software for Operators to use, but can make bookkeeping suggestions. It is the Operators' duty "to maintain a set of books and records, which shall contain all of the information necessary for the computation of any tax due" (MLMC § 3.12.030.E). The Audit Team will use the supporting documents that are provided to make a determination if tax or a refund is due.

Appeal Process

The Operator has ten (10) calendar days from the date of the final letter to request an appeal of the audit findings (MC § 3.12.130). A request for appeal must be sent in writing to the Town Tax Collector who will schedule a hearing. The purpose of the appeal hearing is to re-evaluate the audit findings and resolve any Operator disagreements, if possible. The Operator may bring additional supporting documentation that was not present during the audit as well as provide explanations for any discrepancies found in the records. The Tax Collector, Operator, a note-taker, and the Town Manager or his/her designee will attend the hearing. The Tax Collector has the discretion to increase or decrease the tax owed based on the documentation, but *cannot* waive the Operator's responsibility for penalties or interest. The Tax Collector then files a Notice of Determination for the amount of tax or refund due, which is mailed to the Operator. The Operator has fifteen (15) days from the date of the Notice of Determination to pay the amount due or to appeal in writing to the Town Clerk.

Final Appeal to Town Council

If the Operator is still unsatisfied with the findings, he/she has fifteen (15) days to appeal in writing to the Town Clerk, who will schedule a hearing in front of the Town Council (MC § 3.12.140). At this public hearing, the Operator has the right to explain to the Council why they do not owe the amount established in the Notice of Determination. All documentation including the tax assessment and TOT returns will become public at this hearing. The Tax Collector will prepare the agenda bill and defend the audit findings before the Town Council. Any amendments to the audit findings will result in an amended tax assessment and Notice of Determination. The Town Council's decision is final.

Penalties & Interest

If a Tax Return is submitted late or an audit finds past due tax in an Operator's accounts, penalties and interest will be assessed. The first penalty of 15% is charged when the tax becomes 1-30 days late. A second penalty of 15% is charged once the tax becomes 30+ days late. Interest is charged on both the tax and the penalties at a rate of 1.5% each month (MLMC § 3.12.090, § 3.12.100.A, § 3.12.120).

Section 2: Detailed Research and Field Work Procedures

Pre-Audit Research

After the audit assignment has been received, certain information concerning the Operator's account and the business operations should be obtained through pre-audit research before any contact is made with the Operator. Documentation of all the research conducted should be kept in the Audit Binder or folder for reference.

Information for review is available from various sources including the business' website, current and prior audit files, tax returns, experienced audit personnel, and the Mono County Assessor's Office. This information should aid the Audit Team in:

- Determining the type of transient facility: condo management company, hotel/motel/inn/bed & breakfast, campground, owner rentals, or single-family home;
- Confirming the most recent date of purchase (once a business changes hands, any past due tax is due to the Town by the previous owner within fifteen days);
- Understanding the Operator's account background and reporting history;
- Establishing preliminary objectives for the audit plan;
- Identifying and researching possible industry problem areas (ex: owner stays, cancellations, pet fees, etc.).

1. Advertising

An analysis of the business' website will provide insight into whether or not the Operator is remitting TOT for mandatory fees such as pet fees, extra person charges, rollaway bed fees, early check-in and out fees, extra car fee, etc. The 13% tax rate should be clearly stated *in addition* to the room rents or fees on all advertisements. Try making an online reservation to see if the tax is stated to the consumer. Similarly, it is important to note any promotional "packages" that the business might be offering that include lodging, dining, and/or skiing deals; **tax is due on the lodging portion of all package deals**. Any issues discovered should be investigated by the auditor during field work. All research should be documented in the "Reference" section of the Audit Binder.

2. Tax History Analysis

The tax reporting history should be reviewed and analyzed before contacting the Operator. Request the Tax Returns from the Finance Department along with any Package Worksheets (p. 21) previously submitted by the Operator. Copy these document and file in the "Reference" section of the Audit Binder. Make note if the Operator frequently reports late. Consider suggestions to help the Operator report on time. Enter all reported rents and taxes remitted into the Monthly Ledger to Reported TOT and Daily Ledger to Reported TOT Audit Worksheets (p.

26). Compare the taxable receipts reported for each period and note significant variances. The significant variances might indicate:

- Over-reported taxable receipts/rents,
- Under-reported taxable receipts/rents,
- Seasonal business differences,
- Out-of-business for part of a period.

Field Work

5. Entrance Conference

The entrance conference takes place at the beginning of the audit with the owner or on-site manager. The Town requires that someone be available to answer questions throughout the audit period which will enhance communication and expedite the audit. The entrance conference should include a discussion of the following:

- Operator's responses to the Entrance Conference (Appendix E, p. 27);
- The Operator's interpretation of the Transient Occupancy Tax Ordinance, MC § 3.12 including the Operator's protocol regarding the Stacking Ordinance, MC § 3.12.310;
- The Operator's business operations, accounting system, and available records;
- An overview of record-keeping procedures;
- The Operator's reporting procedure;
- The Operator's clientele (owners, long-term stays, etc.);
- A step by step explanation of the process from guest payment to TOT remittance.

During this period, the Operator is asked to sign the Representation Letter (Appendix F, p. 29) which states the legitimacy of rents reported, tax remitted, and all documentation.

6. Tour & Visual Inspection

A tour of the premises should be made prior to beginning the examination of the audit records. The audit team should look for:

- The Transient Occupancy Tax Certificate is posted in a conspicuous place (MLMC § 3.12.055);
- The number of rooms in the hotel as compared to the capacity shown in the tax history;
- Other sales or services offered to clientele.

7. Record Analysis

The Audit Team should utilize all available records and worksheets as well as computer data provided by the Operator. The ideal process is outlined below; however, the actual procedures employed will depend on the records available. Sampling of records may take place and is at the discretion of the Lead Auditor. Sampling auditing techniques may also be used if the records are numerous or insufficient. Please see a more detailed description of sampling procedures in Appendices I (p. 34) and J (p. 35).

i. Examination of Gross Receipts

Total room receipts must be examined and verified by the auditor. The comparison of total room receipts per the Operator's records and reported taxable room receipts should indicate:

- If the Operator had deducted any sales, and
- If taxable receipts were reported correctly.

Total room receipts should be reconciled for the entire audit period. Total room receipts should be reconciled with the general ledger and/or income tax return.

Differences may be a result of:

- Exemptions (only diplomats and long-term stays are exempt from TOT);
- Additional fees not being included in taxable income (pet fees, extra person charges, rollaway bed fees, cancellation fees, early check-in fees, etc.);
- Computation errors;
- Posting errors;
- Restaurant or bar receipts included in total receipts;
- Gift shop receipts included in total receipts;
- Vending machine income included in total receipts;
- Tax collected included in total receipts.

The differences from the reconciliation with the general ledger and tax returns should be analyzed to determine if further examination of records is necessary. If there are some unexplained differences, then discuss the differences found with the Operator. Many of the differences found in the reconciliation may be of no consequence to TOT. The Operator may be able to readily explain the differences. The auditor can then verify the Operator's explanation rather than spending unnecessary time searching for the nature of the differences.

NOTE: As the auditors work, they will make a list of questions to ask the Operator all at once in order to avoid excessive interruptions to the business.

ii. Reconciliation of Tax Collected to Tax Reported

Analyze the records to determine if there are separate accounts for the different types of taxes collected by the hotel (sales, hotel, mixed beverage taxes). Inquire about a "Chart of Accounts," which will list total amounts for each account type and their accounting code. If there are separate accounts, then analyze the Transient Occupancy Tax account to determine if the amount remitted and the amount collected reconcile.

Example Chart of Accounts

No.	Account Title	Description/Explanation of Account
101	Rents	Room rent
120	Pet Fees	Amounts owed to the company for having a pet in the room
140	Cancellation Fees	The cost of cancelling a reservation
150	Resort Fees	An extra cost added by the operator for staying at their property (sometimes used for maintenance)

If there are not separate accounts for the different types of revenue collected, review the Monthly Summary for the Transient Occupancy Tax collected. Any exceptions noted in this reconciliation should be noted and discussed with the Operator.

Reconcile the TOT collected per Operator's records with the reported amount of tax for the entire audit period. The differences may include:

- Posting errors in the general ledger,
- Non-posting of tax paid,
- Tax reported but not collected,
- Tax collected but not reported.

The extent to which the Monthly Summary and the Daily Reports are examined will depend on the analysis and review of the:

- Operator's history,
- Visual inspection of premises for additional taxable receipts,
- Material errors found in the reconciliation of gross receipts,
- Material errors found in the reconciliation of the tax accrual account.

The taxes collected should be scrutinized in detail for all report periods. Anomalies or periods with large under-reporting should be examined to determine the cause of the under-reporting.

iii. Reconciliation of Monthly Summary to General Ledger

The Monthly Summaries should be totaled on a quarterly or yearly basis and compared to the reconciliation of gross receipts. The purpose of this procedure is to check internal control and to verify that no posting errors went undetected.

A review of the Monthly Summaries may indicate why there is a difference in the reconciliation of receipts. If there is an unexplained difference in the receipts reconciliation, then the Monthly Summaries can be used to narrow the time period in which the differences occurred. The results can indicate which procedures to use in order to reconcile the daily reports.

iv. Reconciliation of Daily Reports to Monthly Summary

The Audit Team will examine the daily reports for the entire audit period, unless otherwise decided by the Lead Auditor. The daily reports for each month will be summed and compared to monthly summary reports.

If it is decided that sampling the records is appropriate, then the type and materiality of the differences noted in the reconciliation of the Monthly Summaries to the Operator's records will determine the size and type of sample required for daily reports.

NOTE: The sample may be random or it may cover a specific time period.

Random sampling should be used when the differences are distributed over the entire audit period or when it is desirable to test internal control procedures.

After the sample has been chosen, the daily reports should be compared to the monthly reports to verify posting of the accounts. The daily reports may also be compared to the daily revenue balance sheet to detect errors that were not detected in the Operator's accounting system.

v. Reconciliation of Daily Report to Folios

Some reconciliation of the daily report to the Operator's folios or guest receipts is necessary to verify gross receipts especially when the Operator's internal control is nonexistent or ineffective. Sampling of daily folios to daily summary reports is generally accepted.

NOTE: The sample may be random or it may cover a specific time period.

vi. TOT Exclusions

The only non-taxable room receipts that an Operator may claim are:

- Owner stays,
- Long-term stays (31+ days),
- Complimentary stays,
- Foreign Diplomats.

The nature of these non-taxable room receipts and the procedures used to verify them will be discussed in this portion of the chapter.

NOTE: Government employees, including Federal employees, are **not** exempt from paying TOT.

a. Owner Stays

Some hotels or management companies allow the individual owners of the units to stay on the premises. Owners are not required to pay tax for their stays because they do not pay rent (see Appendix A, item C, p. 22). Owners are permitted to let "owner guests" stay at their units free of charge as long as no compensation is received, or fee is charged, for the use of the unit (see Appendix A, item D, p. 22). "Owner guest" is not defined in the Town of Mammoth Lakes Municipal Code.

NOTE: Owners who rent their units on their own, via online rental websites, print publications, or other means, are required to obtain their own TOT Certificate in their name and remit TOT to the Town (MLMC § 3.12.060). These Owner-Operators are responsible for the tax due whether or not it was collected from the guest, if any compensation was received from the guest for the use of the unit (MLMC § 3.12.075.B).

NOTE: In the Entrance Conference and the initial examination of the audit records, ask the Operator to distinguish between “owner stays” and “transient stays” in the records. This way, the Audit Team will be prepared during the examination of the rents and have a clear understanding of what is taxable.

b. Long-term Stays

A long-term stay is a stay of more than thirty consecutive (30) days. The Room Revenue Sheets will show the customer's name and hotel room number. The auditor may obtain these for the period that the exemption was claimed to determine if the customer stayed for thirty-one (31) consecutive days. If the Room Revenue Balance Sheet is inadequate or unavailable, then the folios must be examined.

NOTE: Extensive examination of all folios should not be necessary unless there are no summary records through which differences can be specifically identified.

Folios, or guest receipts, are usually filed by the date of the last charges. Therefore, folios can be randomly sampled by days. The folios will show the date of arrival and the date of departure for determining if a customer qualifies as a permanent resident. The registration card may indicate the client's expected length of stay. It may be necessary to examine the registration cards to determine if the first thirty (30) days are exempt.

c. Complimentary Stays

Per the Town’s Transient Occupancy Tax (TOT) Audit Implementation and Guidelines policy, a complimentary stay is a stay for which no compensation was received, whether monetary or otherwise (see Appendix A, item J, p. 22). Complimentary stays are not subject to TOT. Operators may offer complimentary stays to whomever they wish, as frequently as they wish.

NOTE: A complimentary stay is different than a “trade” or “barter.” If a room stay is traded for a good or service, then tax is due on the value of that good or service. For example, if a three-night stay is traded for concert tickets worth \$300, then tax is due on \$300.

NOTE: In the Entrance Conference and the initial examination of the audit records, ask the Operator to distinguish between “complimentary stays” and “transient stays” in the records. This way, the Audit Team will be prepared during the examination of the rents and will have a clear understanding of what is taxable.

NOTE: Often times reservations made through a third party or an internet company show up as \$0.00 on the registration or folio card. Ask the Operator to distinguish between these reservations and legitimate “owner stays” and “complimentary stays” in the records. It is imperative to locate this information because these rents are subject to TOT. Ask the Operator to explain where these

rents and taxes show in the records or to provide agreements with third party reservation companies.

d. Foreign Diplomats

A foreign diplomat is a representative of another country visiting the United States. Exemptions from TOT are only given to foreign diplomats if their country of origin provides the same exemption to citizens of the United States. It is recommended that Operators confirm with the Finance Department whether or not a foreign diplomat is exempt from TOT. In order to do this, fax or email a copy of the diplomat's credentials to the Finance Department. The Finance Department will then confirm with the State Department the status of the diplomat and what, if any exemptions apply. The Finance Department will respond as soon as possible with an approval or a denial. It is recommended that Operators attach a copy of the credentials as well as the approval or denial to the guest folio, so that during an audit the tax exemption can easily be explained. Often times the diplomat's credentials are expired or they are no longer working in that capacity and therefore, are no longer exempt from TOT. If approval is not received by the Finance Department, the Operator may be liable for the tax during an audit. It also recommended that a copy of the diplomat's credentials be provided as an attachment to the Tax Return for the period that applies.

8. Exit Conference

At the conclusion of the audit, the Lead Auditor will explain to the Operator the general results. The Audit Team will explain that they will conclude the calculations at the Town Offices and will contact the Operator shortly with the results. The Team should also explain the process for filing an appeal and who is the contact for any follow up questions or concerns.

Audit Finalization

The audit finalization occurs at the Town offices and includes the development of a narrative summary of the audit events as well as the drafting of the final letter. Once the audit finalization is complete, the binder or folder is routed to the Lead Auditor for review (see Appendix G: Sample Final Letter, p. 31).

Audit Review & Final Letter

The Lead Auditor reviews the audit for mathematical errors and procedural soundness. Once the audit is deemed complete, the reviewer signs the final letter and routes the binder or folder back to the Assistant Auditor. Once the Assistant Auditor receives approval, the final letter with a tax assessment stating the amount due or to be refunded is sent to the Operator. The final letter also addresses any record-keeping recommendations and/or issues that arose during the audit.

If it is determined that there is an underpayment of TOT, a tax assessment will also include the amount of tax due, as well as any penalties and interest that have accrued. The first penalty of 15% is charged when the tax becomes 1-30 days late. A second penalty of 15% is charged once the tax becomes 30+ days late. Interest is charged on both the tax and the penalties at a rate of 1.5% (MLMC § 3.12.090, § 3.12.100.A, § 3.12.120).

Section 3: Town of Mammoth Lakes Staff Protocol

Audit Program Procedures

The TOML Audit Program Procedures is the form that documents the audit plan for every TOT audit and should be completed as the audit progresses. The Lead Sheet is the form used by the Audit Team to document each day's procedures, progress, and findings and should be completed as the audit progresses. It is important for the auditor to document all appropriate and pertinent information.

The Audit Team follows the Audit Program Procedures for every audit of both quarterly and monthly TOT remitters (see Appendix H, p. 32).

The habit of record keeping and documentation should be practiced by all members of the Audit Team. The Audit Program Procedures, all activities, correspondence, copies of reports acquired during field work, and results must be kept in the Audit Binder. It is important for the Audit Team to document all appropriate and pertinent information to support their findings.

Audit Elements

The auditors' primary objective is to determine whether the Transient Occupancy Tax has been correctly reported and paid in compliance with the Municipal Code § 3.12. This should be done in the shortest possible time with the least possible inconvenience for the Operator.

Five essential elements are used to meet audit objectives:

1. **Operator Education:** It is the Audit Team's responsibility to educate the Operator regarding taxable items, ways to maintain records, and reporting best practices. The benefit derived from developing a good relationship with the Operator is two-fold: the Operator tends to become more comfortable with the audit situation, which then allows the audit process to flow more efficiently.
2. **Planning Activities:** Planning an audit begins when an audit assignment is received. The Assistant Auditor prepares the Audit Binder and does the initial research and data entry. The lodging facility should be researched through the internet or other sources for location, hours of operation and seasonal closures. As much information as possible is collected regarding rates, specials, and various other charges that may be subject to TOT. It is very important that all audit activities, including pre-audit preparation, be documented in the "Opening" or "Reference" sections of the Audit Binder or folder.
3. **Examination of Records:** Every audit is unique depending on the Operator's records. Gather and evaluate sufficient records to provide an adequate basis for determining the accuracy of the tax returns filed. Additional records may be requested if the documents provided are not sufficient to complete the audit objectives. A lack of records may be cause to determine the account is in-auditable which will lead to an estimate of the TOT

returns. Town staff cannot recommend specific software to Operators, but can make recommendations on how they could improve their procedures.

4. **Application of the Law:** An auditor must be familiar with the requirements provided by the TOML Municipal Code and the [Transient Occupancy Tax Ordinance § 3.12](#). Copies of this ordinance will be mailed to the Operator with the Initial Letter and be included in the “Reference” section of the Audit Binder.
5. **Documentation:** Research completed in the Planning Stage should be documented in the audit binder. During the field work, auditors will make copies of pertinent audit evidence and file in the “Field Work” section of the audit binder. Also, auditors will document any oral statements made by the Operator which may be important to support audit findings. **A well-documented audit will consist of a complete record of evidence compiled by the Audit Team to support any findings.**

The Team

The TOML Audit Team is comprised of a Lead Auditor and Assistant Auditors. The tasks assigned to each team member are as follows:

- **Lead Auditor:** Schedules upcoming audits, gives Assistant Auditors assignments, provides the main point of contact for Operators, assigns and delegates tasks pertaining to audits to the Assistant Auditors, leads the Audit Team in field work, reviews audit findings, prepares final letter.
- **Assistant Auditor:** Requests tax returns from the Finance Department, prepares the Audit Binder, provides background research, sends confirmation letters, data entry for Excel worksheets, assists with data-entry, providing on-site support to the Lead Auditor during field work, completes follow up, performs in-house audits.
- **Data Entry Staff:** The Audit Team may solicit additional Community Development or Finance Department staff to assist with audits if necessary.

Staff Expectations

- Each auditor must be familiar with the requirements provided by the TOML Municipal Code and the [Transient Occupancy Tax Ordinance § 3.12](#).
- All Auditors must follow the TOML Audit Program Procedures for every audit (see Appendix H, p. 32).
- Members of the Audit Team should dress and act in a professional manner and should wear Town name tags if possible.
- The Team should not interrupt the daily business operations of the transient facility.

- The Team should not accept food, beverages, or gifts from facility employees.
- The Team should refrain from discussing audit findings in places where the Operator, employees, or guests can overhear.
- The Team should bring all necessary field work supplies with them to the transient facility.
- All research, correspondence, and other documentation regarding the audit should be kept in the Audit Binder or folder specifically assigned to the facility and the specific audit. This binder and any other files related to the audit will be stored in a secure location at the Town offices.
- **All Operator records are confidential and should not be discussed with anyone other than the Operator and the Audit Team and shall not be discussed outside of the Town Offices.**

Conclusion

Thank you for supporting the Town of Mammoth Lakes. For more information, you can visit our website at <http://www.ci.mammoth-lakes.ca.us/index.aspx?nid=201>. You can sign up for Town e-News which features important TOT updates by visiting our website here <http://www.ci.mammoth-lakes.ca.us/list.aspx> or by following the Town of Mammoth Lakes on Facebook or Twitter. If you have any questions regarding TOT, please don't hesitate to contact Town staff at 760-934-8989. The offices are open Monday through Friday from 8:00 AM to 12:00 PM and from 1:00 PM to 5:00 PM.

Section 4: Glossary, Forms, & Appendices

Glossary

Appeal: An appeal is a written statement refuting audit findings. It must be submitted to the Tax Collector within 15 days of any tax assessment. Once the request is received a hearing will be arranged with the Tax Collector. The hearing is an opportunity for the Operator to provide additional evidence. After the hearing, the Tax Collector will issue a written Notice of Determination. If the Operator still wishes to dispute the Tax Collector's decision, a final appeal can be made to the Town Council via a request in writing to the Town Clerk within fifteen (15) days of the Notice of Determination. All records become public during hearings before the Town Council.

Assessment: A Tax Assessment is an estimate of past due taxes for a period of three years (unless otherwise noted). State statutes allow for tax assessments and audits of up to a period of four years; however, currently the Town only assesses properties back three years. If you rented your property transiently without remitting TOT you will receive a tax assessment, whether or not your property is zoned for transient rentals. A Tax Assessment may also be issued as a result of a TOT Audit.

A Tax Assessment will include both penalties and interest on the late portions of the tax due. The first penalty "of ten dollars or fifteen percent of the amount of the tax, whichever dollar amount is greater" is charged when the tax becomes 1-30 days late (MC § 3.12.090). After the tax becomes 30+ days late, "an additional delinquency penalty, over and above that provided in Section 3.12.090, of ten dollars or fifteen percent of the amount of the tax, penalties and interest then due, whichever is greater" is charged (MC § 3.12.100.A).

Interest is charged on both the tax and the penalties. According to MC § 3.12.120, "In addition to the penalties imposed by this chapter, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first become delinquent, until paid."

A Tax Assessment can be appealed "within ten days after the serving or mailing of such notice... in writing to the tax collector for a hearing on the amount assessed. If application by the operator for hearing is not made within the time prescribed, the tax, interest, penalties and enforcement charges, if any, determined by the tax collector, shall become final and conclusive immediately due and payable" (MC § 3.12.130). A request for an appeal hearing may be submitted in writing to the Tax Collector at the address listed above.

Audit: An audit is an official examination and verification of financial accounts and records as they pertain to the tax returns under review.

Audit Binder or Folder: The Audit Binder is the record-keeping strategy used by the Audit Team to maintain all documentation regarding a specific audit. The Audit Binder may be a three-ring binder, an accordion folder, or other type of filing tool and will be divided into the following sections: Opening, Reference, Field Work, Closing, Appeal. Audit Binders are confidential and are stored in a secure location at the Town Offices.

Complimentary Stay or “Comp”: Complimentary stays, or donated rooms, are not subject to TOT. Operators may offer complimentary stays to whomever, as often as they wish. See “donation” for more information.

Donation: A ‘true’ donation of a room is when no compensation whether by money or by services is exchanged. A donated room offered for ‘free’ is not a taxable occurrence and therefore is not subject to TOT (see Appendix A, item J, p. 22).

Folio: A folio is a written or electronic record of a particular guest’s account of financial transactions within the property. It could also be a copy of the guest’s receipt.

Foreign Diplomat: A foreign diplomat is an individual who represents their government in different countries. Foreign diplomats are the only exemption from TOT that an Operator can claim, aside from long-term and complimentary stays.

In-house Audit: In-house audits are performed on quarterly remitters who gross less than \$10,000 annually. Operators are required to send their documents in to the Town offices for Town staff to reconcile the TOT returns.

Occupancy: The use, possession, or the right to use of any portion of any transient occupancy facility for overnight sleeping, lodging, dwelling, or similar purposes.

On-site Audit: An on-site audit is performed at the place of business of monthly TOT remitters who gross more than \$10,000 in rents annually. The Operator is required to provide the Audit Team a place to work with electrical outlets and all of the documents to reconcile the TOT returns.

Operator: The person who is the legal owner of a transient occupancy facility.

Owner guest: An owner guest is a friend or family member of an owner who has their transient unit in Mammoth Lakes registered under a rental agreement with a Reservation Bureau or Rental Management Company. This guest has the privilege of using the rental unit tax free as long as no fee has been charged to the owner guest for the use of the unit. A taxable fee would include a cleaning fee or rent. An owner guest is **not** someone who has rented the unit from the owner via an online rental website, print publication, or other means for a fee.

Promotional Package: A promotional package is a combination of related services in a single-priced product, usually easy to arrange and budget-friendly. Packages often include rent, lift tickets, equipment rentals, rounds of golf, and/or spa treatments.

Reconciliation: To reconcile an Operator's records means to make sure that the reported tax correctly matches the tax on the books. When the tax returns match the Operator's accounting books, then they are reconciled. If there is a difference, then they do not reconcile.

Stacking: MLMC § 3.12.310 explains that "*Stacking* occurs when a transient occupant who is the registered occupant of a transient occupancy unit, allows other persons to share occupancy of that unit for any night for which those persons are not registered, with intent to defraud the operator of a transient occupancy facility." Stacking is prohibited by the Municipal Code. It "fraudulently deprives the town of tax revenue to which the town is entitled" and can create fire hazards. Any transient who knowingly "allows stacking to take place in the unit for which that person is registered, and any transient who occupies a unit knowing that his or her occupancy has not been paid for" is in violation of the Municipal Code and such violation shall be prosecuted.

TOML: Town of Mammoth Lakes.

Town: The Town of Mammoth Lakes, California.

Town of Mammoth Lakes Municipal Code (MLMC): The Town of Mammoth Lakes Municipal Code is the governing document of the Town. You can view the Municipal Code online at <http://library.municode.com/index.aspx?clientId=16632&stateId=5&stateName=California>.

Trade (or Barter): A trade is when a room stay is exchanged for a good or a service such as concert tickets or advertising. Tax is due on the value of the good or service exchanged for the room stay.

Transient Occupancy Tax (TOT): Transient occupancy tax, or TOT, is a 13% tax that is charged "for the privilege of occupancy of any transient occupancy facility" (Municipal Code § 3.12.040). The tax is required to be paid by the guest to the operator of the transient occupancy facility at the time the rent is paid. It is the operator's responsibility to remit the TOT to the Town.

The Town of Mammoth Lakes Municipal Code defines past due tax as a "civil debt" (MLMC § 3.36.010). The Town may file an action "in any court of competent jurisdiction for collection of the collection of the amount of any such delinquent or unpaid fee, service charge, utility charge, license or tax, together with any penalties applicable thereto as prescribed by this code or any other enactment." Alternatively, the town may pursue any other legal remedy to collect the civil fines, including, but not limited to, a lien pursuant to MLMC Section 8.20.120 or special assessment pursuant to Section 8.20.130. Furthermore, the Town will seek to collect any enforcement charges or legal fees associated with these actions (MLMC § 1.12.060, MLMC § 3.12.130).

Transient rental: A transient rental is any unit that is occupied for the purpose of sleeping, lodging, or similar reasons for a period of thirty (30) consecutive days or less in exchange for a fee, rent, or similar consideration.



TRANSIENT OCCUPANCY TAX RETURN

Period (mm/yy) From: _____ To: _____

Return type [] Monthly [] Quarterly

Mail to: P.O. BOX 1609, MAMMOTH LAKES, CA 93546

Business Tax Certificate Number: _____

Firm Name _____

Mailing Address _____

City, State, Zip _____

(Business Tax Certificate Number is required)

Monthly returns are due "on or before the last day of the month" following the month reported. Quarterly Returns are due "on or before the last day of the month following the close of the immediately preceding calendar quarter." If the due date falls on a weekend or a holiday, the due date is the next working day. See Municipal Code "3.12.080 for deadline requirements and exceptions.

1. Total gross rents charged.....\$ _____ 1
Gross rent includes all non-optional fees that are charged with the rent at the time of booking (i.e. cleaning, booking, linen fees, etc.)
2. Deductible tax-exempt gross rent.....\$ _____ 2
Tax exemption is occupancy of permanent resident who occupies or has the right to occupy for at least 31 consecutive days. MUST PROVIDE DOCUMENTATION IE, LEASE OR FOLIO THAT INDICATES THE DATES OF OCCUPANCY AND ROOM RATE ASSOCIATED WITH THE DEDUCTION.
3. Total taxable gross rent. (Line 1 minus Line 2)\$ _____ 3
4. Calculate 13.0% Transient Occupancy Tax\$ _____ 4
5. **If this return is filed late then penalty and interest are payable as follows:**
 - Penalty: 1-30 days late: 15% of line 4 or \$10.00, whichever is larger\$ _____ 5p
 - 30+ days late: additional 15% of line 4 or \$10.00, whichever is larger.....\$ _____ 5p
 - Interest: 1.5% of line 4 times the number of months & partial months delinquent (excluding both line 5 penalties) from the 1st day delinquent\$ _____ 5i
6. Total amount of Tax, Penalty and Interest Due\$ _____ 6

Please make your check payable to the Town of Mammoth Lakes and enclose it with this form.

*** REQUIRED OCCUPANCY INFORMATION ***

		Reporting Month=0	Months Ahead					
			1	2	3	4	5	6
A	Total number of Units Available for rent # of units multiplied by # of nights available							
B	Total number of Nights Units Occupied during reporting period (Paid & Unpaid)							
C	Total number of Paid Nights Occupied							
D	Percentage of Paid Nights Occupied C divided by A	%						
E	Forward "Pace" Outlook # room Nights Reserved or Confirmed Sales							

"Months Ahead" starts with month after return due. December taxes paid in January means Feb=Month 1. Quarterly remitters estimate months, also.

I declare under penalty of perjury that the information in this return has been examined by me and to the best of my knowledge and belief is a true, correct, and complete statement. (Certification pursuant to Section 2015.5 of the Civil Code of Procedures.)

Signature of Principal Officer _____ Title _____ Date _____ Phone # _____



Finance Department
P.O. Box 1609 Mammoth Lakes, CA 93546
Phone: (760) 934-8989, Fax: (760) 934-8608
Email: TOT@ci.mammoth-lakes.ca.us

PROMOTIONAL PACKAGE FORM

*Please return this form to the address above.

PLEASE PRINT OR TYPE

TOT #: _____

Business Name: _____

Business Address: _____

Contact Person: _____

Name of Package: _____

Effective Dates: _____ # of Persons: _____

Description	Item Value	Guest Charge Per Item
Package Elements:		
a. # of Nights _____	\$ _____	\$ _____ per Night
b. <u>Transient Occupancy Tax: 13%</u> _____	\$ _____	\$ _____
c. _____	\$ _____	\$ _____
d. _____	\$ _____	\$ _____
e. _____	\$ _____	\$ _____
f. _____	\$ _____	\$ _____
g. _____	\$ _____	\$ _____
h. _____	\$ _____	\$ _____
PACKAGE VALUE \$ _____		SPECIAL RATE \$ _____

THE USE OF THIS PACKAGE PRIOR TO APPROVAL IS AT YOUR OWN RISK

*Package elements must be accompanied by documentation to substantiate fair market value.

DO NOT WRITE BELOW THIS LINE

Date received: _____

Denied/Returned: _____

Approved by: _____

Date Resubmitted: _____

Date Approved: _____

Date Approved: _____

Appendix A: TOT Audit Implementation and Guidelines

The following policies were adopted by the Town Council on April 10, 2013. Bold and underline have been added for easy reference.

- A) **Cancellation fees** charged against any Advance Rent payment (i.e., a deposit) to a guest for cancelling an advance reservation where any right to occupy a room or unit are forfeited is NOT subject to TOT. Operators shall refund any associated pre-paid TOT to the guest.
- B) **Optional cleaning services** and repair costs are not subject to TOT. Check out cleaning is not optional and therefore any charge for a cleaning at check-out is subject to TOT.
- C) **Owner usage** of their property is not subject to TOT.
- D) **Owner's guest usage** is subject to TOT if the guest is charged for the right to occupy the unit. The owner may report and remit the TOT to the Town under the owner's issued TOT certificate, or may request that the owner's guest's rent be reported by the Reservation Bureau with whom the owner has contracted. Reservation Bureaus and Property Management Companies are not required to report TOT for owner's guest's activity unless they have received the rent and TOT for the owner's guest's stay.
- E) The Town will accept signed contracts with **travel wholesalers and on-line travel agents** that itemize the rent and TOT components as a substitute for itemizing rent and TOT on the guest folio. The Town has the right to review all signed contracts when requested by the Town. The Town will not hold remitters responsible for reporting higher rents and paying the full TOT that a travel wholesaler or on-line travel agent may be charging and collecting if the higher rate is unknown to the remitter, and if the remitter is paying the TOT in full for what the remitter has received from the travel wholesaler and on-line travel agent.
- F) **TOT is required to be listed separately on the guest receipt.** However, TOT may be listed as a total TOT amount for all components of rent if the remitter chooses to itemize the rent components. TOT must be listed separately and not 'folded' into the room charge or a package total.
- G) **Packages that bundle other services with the rent are not required to itemize the rent charge on the guest folio** (TOT will still be required to be itemized on the guest folio). Two methods to administer rent and TOT as part of a package and avoid itemizing rent on the guest receipt are available:
 - a. **Submit package detail in advance to the Town** for a 'pre-audit' of the room component. No fee will be charged for this submittal and the Town will have a seven (7) day 'turn around' time for audit acceptance/denial of room component of package.

- b. **Package ads and room detail may be provided after the fact to be used in an audit.** The approach presents some risk to the remitter if the audit of the room component determines that the room component is significantly below market room rates.
- H) **“No Show” forfeited deposits** will be subject to TOT.
- I) **The Town ordinance section 3.12.150 requires that all records necessary to determine the tax shall be made available to the tax collector.** The Council directs that ‘All Records’ does include all information regarding owner’s and owner’s guest’s usage of transient units. And that the reporting of occupancies of rental activity and owner’s and owner’s guest’s occupancies will be required to be reported to the tax collector on the TOT returns.
- J) **The ‘true’ donation of a room** is when no compensation whether by money or by service is exchanged. A donated room offered for ‘free’ is not a taxable occurrence and therefore is not subject to the TOT.

Appendix B: Examples of Taxable Items

The following list is not exhaustive and only provides an example of items that are subject to TOT. Items that are not taxable are also listed towards the bottom of the list. This list is intended only as a guide. If you have specific questions about taxable items, please contact the Finance Department at 760-934-8989 x247.

THIS EXAMPLE IS NOT EXHAUSTIVE AND IS SUBJECT TO CHANGE.
Its purpose is to clarify taxable items to lodging operators and owners.

TYPICAL TAX BASE INCLUDED ITEMS

Basic rent charges or fees required for the right to occupy space	
Rate/night	\$ 300
Nights	5
	\$ 1,500
Required fees (which are taxable):	
Additional Occupants fees	200
CIVIC fees	10
Cleaning fees (basic housekeeping, pet, checkout cleaning)	100
Credit card service charge fees	10
Liner/towel service	10
Pet occupancy fees	10
Required unlimited communication, data, and internet fees	10
Reservation fee/Booking fees	25
Resort/amenities use fees	25
Security fees	10
Early/late arrival/departure fees (e.g. for an additional day)	10
Other required fees	10
Energy surcharges	10
"No-show" unit charges/forfeited deposits & rents	-
Owner's guest usage--occupancy charges > \$0	10
Value of exchanged, donated, complimentary rooms in exchange for tickets, food, services, products, etc.	200
Non base room occupancy charges	\$ 650
Total taxable occupancy charges	\$ 2,150
TOT @ 13%	\$ 280
Subtotal taxable charges to guest + TOT	\$ 2,430

TYPICAL EXCLUDED ITEMS

Bona fide optional charges for food and beverages, skiing, airfare	\$ 10
Donated units (if occupancy charges to guests = \$0)	10
Cleaning services & repair costs (if optional/separate)	10
Cleaning--additional, optional	10
Core cancellation fees/penalties retained	10
Donated units (if occupancy charges to guests = \$0)	10
Fees for movies, video games, etc.	10
Key deposit fees kept	10
Non coin-operated safes and security fees	10
Package's Non occupancy parts separately stated	10
Optional insurance	10
Owner usage (if occupancy charges to guests = \$0)	10
Parking fees, optional	10
Returned (100%) Advance Rent (Deposit) Cancellation fees	10
Room service	50
Subtotal Excluded Items	\$ 190
Total guest charges (taxed and non-taxed)	\$ 2,620

- Whether charges are required to occupy a unit is a key factor for taxability.
- The Town has the right to review all signed contracts when requested by the Town.
- Frequent cleaning fees for owners usage combined with a tip about transients may trigger an audit, three year review of accounting transactions and three year assessment.

Appendix C: Sample Initial Letter

The following is an example of an initial letter, asking to schedule an on-site audit.



Community Development Department
P.O. Box 1609 Mammoth Lakes, CA 93546
Phone: (760) 934-8989, Fax: (760) 934-8608
Email: TOT@ci.mammoth-lakes.ca.us

July 1, 2012

LODGING PARTNER
STREET ADDRESS
MAMMOTH LAKES, CA 93546

Dear Lodging Partner,

Pursuant to Section 3.12.150 of the Town of Mammoth Lakes Municipal Codes, we are verifying the collection of Transient Occupancy Tax. Accordingly, we request to inspect your records for the period of **June 2009 through June 2012**.

We will begin our audit in the Town offices on **Wednesday, August 01, 2012 at 9:00 a.m.** In order to minimize the inconvenience, this audit will be performed in-house and will require that you send your records by mail, fax, or email by this date. This audit should take no more than three days.

We ask that you provide the following records for review:

- A list of the units that you manage;
- General Ledgers;
- Lodging system records and reports (e.g. daily worksheets, weekly worksheets, monthly summary ledgers, etc.);
- Registration records, contracts, or receipts (e.g. folios);
- Exemption claim forms and supporting documentation, if any;
- Worksheets supporting preparation of TOT returns; and
- Monthly bank statements and/or tax returns, if applicable, for the period of time identified above.

Information you provide will be considered confidential in accordance with Section 3.12.150 of the Town of Mammoth Lakes Transient Occupancy Tax Ordinance. Should you have any questions or if you are unable to submit the documents in a timely manner, please notify me within ten days of this letter.

Sincerely,

Karen Sibert
Supervising Analyst

CC: Cyndi Myrold, Finance Director

Enclosed: Chapter 3.12 Mammoth Lakes Transient Occupancy Tax Ordinance

Appendix D: TOT Audit Worksheets

The following is an example of worksheets used by the Audit Team to reconcile TOT Returns and the Operator's records.

MONTH	LEDGER AMOUNT	TAX ON LEDGER	TOTAL	TOT RETURNS	TOT TAX PAID	TOTAL	DIFFERENCE
Apr-2009	\$0.00	\$0.00	\$0.00	\$311,057.73	\$40,437.50	\$351,495.23	\$40,437.50
May-2009	\$0.00	\$0.00	\$0.00	\$79,947.61	\$10,393.18	\$90,340.79	\$10,393.18
Jun-2009	\$0.00	\$0.00	\$0.00	\$109,189.67	\$14,194.65	\$123,384.32	\$14,194.65
Jul-2009	\$0.00	\$0.00	\$0.00	\$321,840.41	\$41,839.25	\$363,679.66	\$41,839.25
Aug-2009	\$0.00	\$0.00	\$0.00	\$535,121.91	\$69,565.84	\$604,687.75	\$69,565.84
Sep-2009	\$0.00	\$0.00	\$0.00	\$192,689.40	\$25,049.63	\$217,739.03	\$25,049.63
Oct-2009	\$0.00	\$0.00	\$0.00	\$82,112.35	\$10,674.60	\$92,786.95	\$10,674.60
Nov-2009	\$0.00	\$0.00	\$0.00	\$77,131.12	\$10,027.03	\$87,158.15	\$10,027.03
Dec-2009	\$0.00	\$0.00	\$0.00	\$745,897.76	\$96,966.70	\$842,864.46	\$96,966.70
MONTH	LEDGER AMOUNT	TAX ON LEDGER	TOTAL	TOT RETURNS	TOT TAX PAID	TOTAL	DIFFERENCE
Jan-2010	\$0.00	\$0.00	\$0.00	\$348,686.98	\$45,329.30	\$394,016.28	\$45,329.30
Feb-2010	\$0.00	\$0.00	\$0.00	\$489,456.91	\$63,629.39	\$553,086.30	\$63,629.39
Mar-2010	\$0.00	\$0.00	\$0.00	\$253,641.56	\$32,973.40	\$286,614.96	\$32,973.40
Apr-2010	\$0.00	\$0.00	\$0.00	\$375,935.72	\$48,871.64	\$424,807.36	\$48,871.64
May-2010	\$0.00	\$0.00	\$0.00	\$87,777.53	\$11,410.55	\$99,188.08	\$11,410.55
Jun-2010	\$0.00	\$0.00	\$0.00	\$106,481.55	\$13,842.60	\$120,324.15	\$13,842.60
Jul-2010	\$0.00	\$0.00	\$0.00	\$349,039.83	\$45,375.17	\$394,415.00	\$45,375.17
Aug-2010	\$0.00	\$0.00	\$0.00	\$505,129.64	\$65,666.85	\$570,796.49	\$65,666.85
Sep-2010	\$0.00	\$0.00	\$0.00	\$172,469.00	\$22,420.97	\$194,889.97	\$22,420.97
Oct-2010	\$0.00	\$0.00	\$0.00	\$98,387.21	\$12,790.33	\$111,177.54	\$12,790.33
Nov-2010	\$0.00	\$0.00	\$0.00	\$81,168.61	\$10,551.91	\$91,720.52	\$10,551.91
Dec-2010	\$0.00	\$0.00	\$0.00	\$733,415.09	\$95,343.96	\$828,759.05	\$95,343.96
MONTH	LEDGER AMOUNT	TAX ON LEDGER	TOTAL	TOT RETURNS	TOT TAX PAID	TOTAL	DIFFERENCE
Jan-2011	\$0.00	\$0.00	\$0.00	\$353,059.32	\$45,897.71	\$398,957.03	\$45,897.71
Feb-2011	\$0.00	\$0.00	\$0.00	\$474,505.20	\$61,685.61	\$536,190.81	\$61,685.61
Mar-2011	\$0.00	\$0.00	\$0.00	\$225,345.05	\$29,294.85	\$254,639.90	\$29,294.85
Apr-2011	\$0.00	\$0.00	\$0.00	\$263,865.26	\$34,302.48	\$298,167.74	\$34,302.48
May-2011	\$0.00	\$0.00	\$0.00	\$125,195.64	\$16,275.43	\$141,471.07	\$16,275.43
Jun-2011	\$0.00	\$0.00	\$0.00	\$117,870.57	\$15,323.17	\$133,193.74	\$15,323.17
Jul-2011	\$0.00	\$0.00	\$0.00	\$358,219.25	\$46,568.50	\$404,787.75	\$46,568.50
Aug-2011	\$0.00	\$0.00	\$0.00	\$493,246.96	\$64,122.70	\$557,369.66	\$64,122.70
Sep-2011	\$0.00	\$0.00	\$0.00	\$163,623.51	\$21,271.05	\$184,894.56	\$21,271.05
Oct-2011	\$0.00	\$0.00	\$0.00	\$86,846.77	\$12,290.08	\$99,136.85	\$12,290.08
Nov-2011	\$0.00	\$0.00	\$0.00	\$75,637.58	\$9,832.88	\$85,470.46	\$9,832.88
Dec-2011	\$0.00	\$0.00	\$0.00	\$697,632.06	\$90,692.16	\$788,324.22	\$90,692.16
MONTH	LEDGER AMOUNT	TAX ON LEDGER	TOTAL	TOT RETURNS	TOT TAX PAID	TOTAL	DIFFERENCE
Jan-2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Feb-2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mar-2012	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Appendix E: Entrance Conference

The following is an example of questions that may be asked during the Entrance Interview. This document can also be used to help prepare for a TOT audit.

1. Who is the current legal owner of this business?
2. Who is the current business manager/contact person?
3. Who is the current Chief Financial Officer/Controller?
4. What is the number of rooms / rental spaces at this business?
5. What is the estimated paid occupancy during the audit period?
6. What is the Average Daily Rate for the period?
7. Ask about any package rates offered and to provide any package worksheets and/or details.
8. Are accounting records kept on a Fiscal or Calendar year basis?
9. What is the business's General Ledger (GL) system?
10. What is the business's "house system" (i.e. cash receipts log)?
11. Are postings transferred from the house system to the GL automatically or manually?
12. How frequently are postings made to the business's GL?
13. Request the Chart of Accounts for GL and House system.
14. Are receipts issued at the time guests make payment?
15. At what point is a Folio or Registration Card setup (e.g. at arrival, departure, etc.)?
16. Are Folio / Registration Card numbers initiated each year? If not, when?
17. Are Foliros / Registration Cards sequentially numbered? How are they issued to the guest?
18. What is the Individual No-Show forfeiture policy?
19. What is your Group Rate No-Show forfeiture policy?
20. During the review period, did the business have guests that have exceeded 30-days stay?
21. During the review period, did the business claim any Federal Exemptions?

22. Do you have unique exceptions or irregularities to report prior to the start of the audit?
23. Are you familiar with the Stacking Ordinance, MC § 3.12.310? What are your procedures for informing guests, enforcement, etc.?
24. Provide a business Representation letter to be completed by the operator.
25. Request a visitor's information packet for the facility.
26. Request to view location of current TOT certificate.
27. Request a tour of the Hotel (optional).
28. Do you have questions (for us) before we begin the audit?

Business Representative's Signature

Date

TOML Lead Auditor's Signature

Date

Appendix F: Representation Letter

The following is an example of a representation letter that the Operator is asked to sign before the end of the audit. The letter states that to the best of the Operator's knowledge, all taxes have been reported correctly.



Community Development Department
P.O. Box 1609 Mammoth Lakes, CA 93546
Phone: (760) 934-8989, Fax: (760) 934-8608
Email: TOT@ci.mammoth-lakes.ca.us

Date _____

Town of Mammoth Lakes
Finance Department
PO Box 1609
Mammoth Lakes, CA 93546

RE: Representation Letter, Transient Occupancy Tax Audit

Dear Town of Mammoth Lakes,

We are providing this letter in connection with your audit of the Transient Occupancy Taxes (TOT) for the period of _____ through _____. By signing this letter, you are expressing an opinion as to whether the TOT returns filed with the Town of Mammoth Lakes are in compliance with the Town's Transient Occupancy Tax Ordinance found in Municipal Code § 3.12. We confirm, to the best of our knowledge and beliefs, as of _____, the following representations made to you during your audit are true:

1. The transient occupancy revenues and taxes presented to you include all transient occupancy revenues and taxes collected from guests, as defined in the Town of Mammoth Lakes Transient Occupancy Tax Ordinance, Municipal Code § 3.12 (the Code).
2. We have made available to you all financial records concerning room revenues and all other related data.
3. There are no material transactions that have not been properly recorded in the accounting records underlying the transient occupancy revenues.

4. There has been no –
 - a) Fraud involving management or employees who have significant roles in internal control; or
 - b) Fraud involving others that could have a material effect on the transient occupancy revenues.

5. The following, if any, have been properly recorded in the general ledger and supporting documents provided to the audit team:
 - a) The amount of TOT exempted as defined in the Code;
 - b) The adjustments allowed in the Code; and that
 - c) We are responsible for compliance with the laws and regulations applicable to us and we have identified and disclosed to the audit team all laws and regulations that we believe have a direct and material effect on the TOT returns.

To the best of our knowledge and belief, no events, including instances of noncompliance, have occurred subsequent to the period ending and through the date of this letter that would require an adjustment to the aforementioned revenues and taxes.

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Appendix G: Sample Final Letter

The following is an example of a final letter which is mailed to the Operator after the audit is complete. The letter states whether any tax or a refund to the Operator is due. It also includes recommendations for future record-keeping.



Community Development Department
P.O. Box 1609 Mammoth Lakes, CA 93546
Phone: (760) 934-8989, Fax: (760) 934-8608
Email: TOT@ci.mammoth-lakes.ca.us

August 31, 2012

LODGING PARTNER
STREET ADDRESS
MAMMOTH LAKES, CA 93546

RE: Transient Occupancy Tax Audit Findings

Dear Lodging Partner,

At this time, I would like to thank you for your assistance and cooperation during the Transient Occupancy Tax Audit that was performed on August 1, 2012 at your Mammoth Lakes location.

The findings of the Audit Team for the period June 1, 2009 through June 30, 2012, showed that you have successfully submitted your Tax Returns with minimal errors. In fact, the team found that your organized record keeping and daily auditing policy have prevented any loss of Transient Occupancy Taxes.

The audit team did have some suggestions for making your next TOT audit more efficient:

1. Place your Transient Occupancy Tax Certificate in a conspicuous location.

If you are not in agreement with these findings you may request, in writing, an administrative hearing with the Finance Director, Cyndi Myrold, within fifteen days of this letter.

If you have any questions regarding these findings, please contact me at 760-934-8989 x240.

Sincerely,

Karen Sibert
Supervising Analyst

CC: Cyndi Myrold, Finance Director

Appendix H: TOML Audit Program Procedures

The following are the procedures followed by TOML staff for every TOT audit.

PROCESS	AUDITOR INITIALS	BINDER REFERENCE
<p>I. <u>Background</u></p> <p>The Town of Mammoth Lakes Municipal Code § 3.12 describes the uniform transient occupancy tax ordinance.</p> <p>Each operator collects the tax as the rent is collected from every transient. The amount of tax is separately stated from the amount of the rent charged. Each operator, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax collector, makes a return to the tax collector, on forms provided by the tax collector.</p>		
<p>II. <u>Objectives</u></p> <ol style="list-style-type: none"> 1. To determine whether the operator is in compliance with the Uniform Transient Occupancy Tax Ordinance. 2. To determine whether revenues reported in the Tax Return agree with the general ledger and are supported with source documents. 		
<p>III. <u>Preliminary Research</u></p> <ol style="list-style-type: none"> 1. Select an operator 2. Obtain an understanding of the following: <ul style="list-style-type: none"> • TOT Ordinance • Prior year work paper, if any • Check Ownership with the Assessor's Office • Coordination with Finance Department (late or delinquent payments during the last 3 years) 3. Send out engagement letter 4. Obtain Tax Returns from Tax Collector's Office for the selected operator and prepare a summary of tax paid for the audit period for analytical purpose. 		

PROCESS	AUDITOR INITIALS	BINDER REFERENCE
<p>IV. <u>Field Work</u></p> <ol style="list-style-type: none"> 1. Perform the Entrance Conference with the Responsible Party or Representative. 2. Provide a copy of the Representation Letter to be completed before the end of the Audit. 3. Note that the operator displays a valid Town of Mammoth Lakes Transient Occupancy Tax Certificate in a conspicuous place on the premises. 4. Obtain and document the operator's general description of, including but not limited to, general accounting system, lodging system, number of units to rent and so on. 5. Understand and document the adequacy of records for internal control of transactions of the operator. 6. If the operator offers a package rate, verify with Package Worksheets from the Finance Department or supporting documentation from the Operator that appropriate items are being taxed correctly. 7. Compare the amount on the return and in the general ledger and obtain explanation and supporting documents if there are any differences. 8. On a sample basis, test the accuracy of transferring revenues from a lodging system to a general accounting system, if available. 9. On a sample basis, test individual folios to determine if the operator states the tax separately from the amount of rent charged for each transient and that the tax on each folio is accounted for and reported to the Town. 10. Perform the Exit Conference with the Operator, making sure there are no outstanding questions. Leave contact information for follow-up. 		
<p>V. <u>Conclusions</u></p> <p>We have performed procedures sufficient to achieve the audit objectives for The Transient Occupancy Tax audit for the operator, and the results of these Procedures are adequately documented in the accompanying portfolio.</p> <p>Notes: _____</p>		

Appendix I: TOML Sampling Procedures

The following briefly describes the Town of Mammoth Lakes sampling procedures.

Audit sampling and testing should be made in accordance with generally accepted auditing procedures. The Audit Team will note exceptions and be prepared to discuss these exceptions with the Operator.

Sampling is used to increase the overall coverage and efficiency of the TOT audit program. The sampling procedures used by TOML staff must be in accordance with generally recognized sampling techniques. The *Statement on Auditing Standards (SAS) No. 39* and *Audit Sampling* issued by the American Institute of Certified Public Accountants (AICPA) are the primary sources of guidance. Generally accepted auditing standards require that any actions taken or any audit procedure applied as a result of sampling must be based on sufficient competent evidential matter. The text of SAS No. 39 provides the framework for a sampling program. Although the material is primarily intended to apply to audits for the purpose of expressing an opinion on financial statements, it is nonetheless applicable to tax compliance auditing.

The Operator's records may indicate that it will be necessary or more efficient to perform a sample audit because the records are one of the following:

- The taxpayer's records are so detailed, complex or voluminous that an audit of all detailed records would be unreasonable or impractical.
- The taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible.
- The cost of an audit of all detailed records, either for the taxpayer or for the Town will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

The sample period should be randomly selected, however, it is imperative that the Lead Auditor designs the sample to reflect, as closely as possible, the normal business operations and follows generally recognized sampling techniques. For example, the auditor would not want to take a sample from a period in which the transient facility was closed for part of the period or was full booked for a private party. Samples from such periods would not accurately represent the business activity throughout the three year period and therefore, would not be sufficient.

Also imperative is that sampling should not be utilized when records are inadequate to *accurately* reflect the business operations of the taxpayer. Without good internal controls and records, the auditor should determine the best information available and base the audit report on that information (i.e., estimate).

Appendix J: Statement on Auditing Standards (SAS) No. 39

The following is an excerpt from the American Institute of Certified Public Accountants' (AICPA) *Statement on Auditing Standards (SAS) No. 39* which outlines generally accepted auditing sampling standards.

.01 Audit sampling is the application of an audit procedure to less than 100 percent of the items within an account balance or class of transactions for the purpose of evaluating some characteristic of the balance or class. This section provides guidance for planning, performing, and evaluating audit samples.

.02 The auditor often is aware of account balances and transactions that may be more likely to contain misstatements. He considers this knowledge in planning his procedures, including audit sampling. The auditor usually will have no special knowledge about other account balances and transactions that, in his judgment, will need to be tested to fulfill his audit objectives. Audit sampling is especially useful in these cases.

.03 There are two general approaches to audit sampling: nonstatistical and statistical. Both approaches require that the auditor use professional judgment in planning, performing, and evaluating a sample and in relating the audit evidence produced by the sample to other audit evidence when forming a conclusion about the related account balance or class of transactions. The guidance in this section applies equally to nonstatistical and statistical sampling. [Revised, March 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 105.]

.04 The third standard of field work states, "The auditor must obtain sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit." Either approach to audit sampling, when properly applied, can provide sufficient audit evidence. [Revised, March 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 105.]

.05 The sufficiency of audit evidence is related to the design and size of an audit sample, among other factors. The size of a sample necessary to provide sufficient audit evidence depends on both the objectives and the efficiency of the sample. For a given objective, the efficiency of the sample relates to its design; one sample is more efficient than another if it can achieve the same objectives with a smaller sample size. In general, careful design can produce more efficient samples. [Revised, March 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 105.]

.06 Evaluating the appropriateness of audit evidence is solely a matter of auditing judgment and is not determined by the design and evaluation of an audit sample. In a strict sense, the sample evaluation relates only to the likelihood that existing monetary misstatements or deviations from prescribed controls are proportionately included in the sample, not to the auditor's treatment of such items. Thus, the choice of nonstatistical or statistical sampling does not directly affect the auditor's decisions about the auditing procedures to be applied,

the appropriateness of the audit evidence obtained with respect to individual items in the sample, or the actions that might be taken in light of the nature and cause of particular misstatements. [Revised, March 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 105.]

.07 Some degree of uncertainty is implicit in the concept of "a reasonable basis for an opinion" referred to in the third standard of field work. The justification for accepting some uncertainty arises from the relationship between such factors as the cost and time required to examine all of the data and the adverse consequences of possible erroneous decisions based on the conclusions resulting from examining only a sample of the data. **If these factors do not justify the acceptance of some uncertainty, the only alternative is to examine all of the data.** Since this is seldom the case, the basic concept of sampling is well established in auditing practice.

.08 The uncertainty inherent in applying audit procedures is referred to as audit risk. Audit risk includes both uncertainties due to sampling and uncertainties due to factors other than sampling. These aspects of audit risk are sampling risk and nonsampling risk, respectively. 3 [As amended, effective for audits of financial statements for periods beginning on or after December 15, 2006, by Statement on Auditing Standards No. 111.]

[.09] [As amended, effective for audits of financial statements for periods ended after September 30, 1983, by Statement on Auditing Standards No. 45. Paragraph deleted by the issuance of Statement on Auditing Standards No. 111, March 2006.]

.10 Sampling risk arises from the possibility that, when a test of controls or a substantive test is restricted to a sample, the auditor's conclusions may be different from the conclusions he would reach if the test were applied in the same way to all items in the account balance or class of transactions. That is, a particular sample may contain proportionately more or less monetary misstatements or deviations from prescribed controls than exist in the balance or class as a whole. For a sample of a specific design, sampling risk varies inversely with sample size: the smaller the sample size, the greater the sampling risk.

.11 Nonsampling risk includes all the aspects of audit risk that are not due to sampling. An auditor may apply a procedure to all transactions or balances and still fail to detect a material misstatement. Nonsampling risk includes the possibility of selecting audit procedures that are not appropriate to achieve the specific objective. For example, confirming recorded receivables cannot be relied on to reveal unrecorded receivables. Nonsampling risk also arises because the auditor may fail to recognize misstatements included in documents that he examines, which would make that procedure ineffective even if he were to examine all items. Nonsampling risk can be reduced to a negligible level through such factors as adequate planning and supervision (see section 311, *Planning and Supervision*) and proper conduct of a firm's audit practice (see section 161, *The Relationship of Generally Accepted Auditing Standards to Quality Control Standards*). [As amended, effective for audits of financial statements for periods ended after September 30, 1983, by Statement on Auditing Standards No. 45.]