

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 18-83

)
) IN THE MATTER OF AMENDING CHAPTER 4
) OF LANE CODE TO REVISE THE DEFINITION
) OF RENTAL, REVISE THE REPORTING REQUIRE-
) MENTS, REVISE INTEREST RATE, MAKE CERTAIN
) HOUSEKEEPING REVISIONS AND DECLARE AN
) EMERGENCY

The Board of County Commissioners ordains as follows:

Chapter 4 of Lane Code is hereby amended by removing and substituting the following pages:

REMOVE THESE PAGES

4.200 - 4.210(2) to
4.225(1) - 4.225(2),
i.e. 4-14 to 4-18
(a total of five pages)

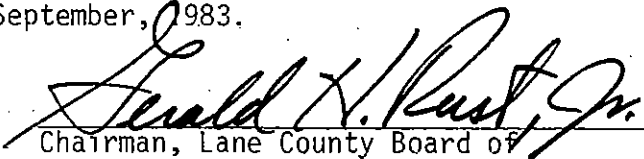
INSERT THESE PAGES

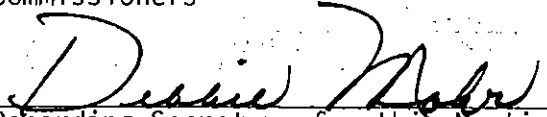
4.200 - 4.210(2) to
4.225(1) - 4.225(2),
i.e. 4-14 to 4-18
(a total of five pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to revise the definition of rental, revise the reporting requirements, revise interest rate, make certain housekeeping revisions and declare an emergency.

An emergency is hereby declared to exist and this ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect on October 1, 1983.

Enacted this 28th day of September, 1983.


Chairman, Lane County Board of
Commissioners


Recording Secretary for this Meeting
of the Board

In the Matter of Amending Chapter 4 of Lane Code to Revise the Definition of Rental, Revise the Reporting Requirements, Revise Interest Rate, Make Certain Housekeeping Revisions and Declare an Emergency

APPROVED AS TO FORM

DATE 9/7/83


OFFICE OF LEGAL COUNSEL

LANE COUNTY CAR RENTAL TAX

4.200 Title. This subchapter may be referred to as the Lane County Car Rental Tax.

4.205 Definitions. In addition to the general definitions included in LC 1.010, the following definitions shall apply, unless the context requires otherwise:

Commercial Establishment. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

County Finance Officer. The person designated by the Board of County Commissioners to perform the functions of the County Finance Officer.

Motor Vehicle. Includes, without limitation, all automobiles; pickup campers; and any motorized passenger vehicles designed to carry less than 10 persons which are capable of being used on the highways of Oregon.

Operator. Any person operating a commercial establishment.

Person. 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.

Rental or Renting. Obtaining in Lane County the use of a motor vehicle from a commercial establishment in Lane County for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity. Also excluded are fees or charges for optional services including, but not limited to, additional insurance coverage and refueling charges.

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

4.210 Imposition of Tax.

(1) A tax is hereby imposed on every person renting a motor vehicle from a commercial establishment in Lane County if the rental is for a period of 30 days or less. A rental shall have a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.

(2) The rate of the tax imposed by LC 4.210(1) above shall be equal to five percent of the gross rental fee charged by the commercial establishment for the rental.

(3) If, with respect to any rental fee, the tax imposed under this section does not equal an amount calculable to a whole cent, the commercial establishment shall charge a tax equal to the next highest whole cent, provided, however, that the amount remitted to the County Finance Officer by the commercial establishment for each quarter shall be equal only to five percent of the total rental fees collected by the commercial establishment during the quarter.

4.215 Collection of Tax; Remittance; Tax as Debt; Records.

(1) The tax imposed by LC 4.210 above shall be collected by the commercial establishment at the time it collects a rental fee.

(2) Every commercial establishment liable for the collection and remittance of the tax imposed by this subchapter may withhold five percent of the net tax due to cover the establishment's expenses in the collection and remittance of the tax.

(3) On or before the last day of January, April, July and October, each commercial establishment shall remit to the County Finance Officer all taxes collected during the preceding calendar quarter, less expenses under LC 4.215(2) above. The remittance is delinquent on the 10th day after due. The remittance shall be accompanied by a report showing:

(a) The amount of the gross rental fees collected by the commercial establishment during the preceding quarter.

(b) The amount retained by the commercial establishment for expenses under LC 4.215(2) above.

(c) Such further information as the County Finance Officer may direct.

(4) In the case of motor vehicle rentals which originate in Lane County but for which the rental fee is collected at some other location, the commercial establishment which provided the vehicle in the County shall be responsible for remittance of the tax, based on the total rental fee, wherever collected.

(5) The amount of tax required to be collected under LC 4.210 above shall be a debt owed by the commercial establishment to the County until remitted under this section.

(6) All commercial establishments shall maintain accurate records of rental fees assessed and of taxes collected, and the records shall be subject to review, inspection and audit by the County Finance Officer, or his or her designee, at all reasonable times.

(7) It shall be unlawful for the County Finance Officer, or any person having an administrative or clerical duty under the provisions of this subchapter 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 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 Lane County official, employee, or agent for collection of taxes for the sole purpose of administering or enforcing any provisions of this subchapter; or enforcing any provisions of this subchapter; or collecting taxes imposed hereunder.

(b) The disclosure after the filing of a written request to that effect, to the taxpayer himself or herself, 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 County Counsel approves each such disclosure and that the County Finance Officer may refuse to make any disclosure referred to in this paragraph when in his or her 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 County

(e) Necessary disclosures in connection with appeals or forced collections as provided in this subchapter.

4.220 Extensions, Penalties and Interest.

(1) Extension. For good cause, the County Finance Officer may extend for not to exceed one month the time for making any return or payment of tax. No further extension shall be granted. Any operator or commercial establishment to whom an extension is granted shall pay interest at the rate of one percent per month on the amount of tax due without proration for a fraction of a month.

(2) Other Payment Periods. The County Finance Officer, if he or she deems it necessary in order to insure payment or facilitate collection by the County of the amount of taxes in any individual case, may require returns and payment of the amount of taxes for other than quarterly periods.

(3) Original Delinquency. Any operator or commercial establishment who has not been granted an extension of time for remittance of tax due or whose extension has expired and who fails to remit any tax imposed by this subchapter prior to delinquency shall pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(4) Continued Delinquency. Any operator or commercial establishment who has not been granted an extension of time for remittance of tax due or whose extension has expired, and who failed to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of tax and the 10% penalty first imposed.

(5) Fraud. If the County Finance Officer determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade the provisions thereof, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in LM 4.220(3) and (4) above.

(6) Interest. In addition to the penalties imposed, any operator or commercial establishment who fails to remit any tax imposed by this subchapter 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.

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

4.225 Deficiency Determinations; Fraud, Evasion, Operator Delay.

(1) Deficiency Determination. If the County Finance Officer determines that the returns are incorrect, he or she 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 or her 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 on deficiencies shall be applied as set forth in LC 4.220 above.

(a) In making a determination the County Finance Officer 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 LC 4.220 above.

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

(c) Except in the case of fraud or intent to evade the provisions of this subchapter 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 quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(d) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the County Finance Officer has given notice thereof, provided, however, the operator may petition 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 subchapter any report and remittance of said tax or any portion thereof required by this subchapter, or makes a fraudulent return or otherwise wilfully attempts to evade this subchapter, the County Finance Officer shall proceed in such manner as he or she may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the County Finance Officer has determined the tax due that is imposed by this subchapter from any operator who has failed or refused to collect the same and to report and remit said tax, he or she shall proceed to determine and assess against such operator the tax, interest and penalties, provided for by this subchapter. In case such determination is made, the County Finance Officer 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 County Finance Officer 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 10 days after the County Finance Officer has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.