

CHAPTER 11: REVENUE AND TAXATION

§§:

MISCELLANEOUS FEE PROVISIONS

- § 11.001 *Policy And Purpose Of Fees.*
- § 11.002 *Fees For Publications And Records.*
- § 11.003 *Fees For Tapes And Documents Provided By The Clerk Of The Board's Office.*

PERSONAL PROPERTY TAX SALES

- § 11.100- *Sale For Amount Due.*
- § 11.101 *Insufficient Bid.*

MOTOR VEHICLE FUEL TAX

- § 11.200- *Definitions.*
- § 11.201 *Fee Imposed; Administration By Division.*
- § 11.202 *Monthly Statement By Dealer; Amount Of Fee.*
- § 11.203 *License Required.*
- § 11.204 *Application And Issuance Of License.*
- § 11.205 *Failure To Secure License; Delinquency Penalty.*
- § 11.206 *Revocation Of License.*
- § 11.207 *Cancellation Of License.*
- § 11.208 *Remedies Cumulative.*
- § 11.209 *Payment Of Fee And Delinquent Penalty.*
- § 11.210 *Monthly Statements Required.*
- § 11.211 *Failure To File Monthly Statement.*
- § 11.212 *Billing Purchasers.*
- § 11.213 *Receipt, Payment Or Sale Without Invoice Or Delivery Tag Prohibited.*
- § 11.214 *Transporting Motor Vehicle Fuel In Bulk.*
- § 11.215 *Export Fuel Exempted.*
- § 11.216 *Sales To Armed Forces Exempted.*
- § 11.217 *Fuel In Vehicles Coming Into County Not Taxed.*

- § 11.218 *Fuel Sold Or Delivered To Dealers Or Subdealers.*
- § 11.219 *Refunds.*
- § 11.220 *Limitation On Applications For Refunds.*
- § 11.221 *Seller To Give Invoice For Each Purchase Made By Person Entitled To Refund.*
- § 11.222 *Claims For Refunds; Investigation.*
- § 11.223 *Refund Of Fee On Fuel Used In Operation Of Vehicles Over Certain Roads Or Private Property.*
- § 11.224 *Refunds To Purchasers Of Fuel For Aircraft.*
- § 11.225 *Refunds To Counties And Road Assessment Districts.*
- § 11.226 *Refunds To State, Counties, And Cities.*
- § 11.227 *Refund Of Fee On Fuel Used In Transportation Of Rural Mail.*
- § 11.228 *Examinations And Investigations; Correction Of Reports.*
- § 11.229 *Limitation On Credit For Or Refund Of Overpayment And On Assessment Of Additional Fee.*
- § 11.230 *Examining Books And Accounts Of Carrier Of Motor Vehicle Fuel.*
- § 11.231 *Records To Be Kept By Dealers.*
- § 11.232 *Records To Be Kept Three Years.*
- § 11.233 *Use Of Fee.*

MOTOR VEHICLE RENTAL TAX

- § 11.300- *Definitions.*
- § 11.301 *Imposition Of Tax.*
- § 11.302 *Collection Of Tax; Remittance Records; Tax As Debt.*
- § 11.303 *Tax Evasion Or Deficiency Determination.*
- § 11.304 *Use Of Taxes.*
- § 11.305 *Exemptions.*
- § 11.306 *License Required.*
- § 11.307 *Director's Rules.*

§ 11.399 *Penalty.*

TRANSIENT LODGINGS TAX

§ 11.400- *Definitions.*

§ 11.401 *Tax Imposed.*

§ 11.403 *Collection Of Tax By Operator.*

§ 11.404 *Operator's Duties.*

§ 11.405 *Exemptions.*

§ 11.406 *Registration Of Operator; Certification Of Authority.*

§ 11.407 *Due Date; Returns And Payments.*

§ 11.408 *Tax Deficiency Determination.*

§ 11.409 *Fraud; Refusal To Collect; Evasion.*

§ 11.410 *Operator Delay.*

§ 11.411 *Redeterminations.*

§ 11.412 *Security For Collection Of Tax.*

§ 11.413 *Records Maintained By Operator; Administrator Examination.*

§ 11.414 *Confidential Character Of Information; Disclosure Prohibited.*

§ 11.415 *Appeals To Board.*

§ 11.416 *Refunds By County To Operator.*

§ 11.417 *Refunds By County To Transient.*

§ 11.418 *Refunds By Operator To Tenant.*

§ 11.419 *Credit Against City Tax.*

§ 11.420 *Delinquency And Interest.*

§ 11.499 *Penalty.*

MISCELLANEOUS FEE PROVISIONS**§ 11.001 POLICY AND PURPOSE OF FEES.**

Because of the increasing costs to the county of providing services to the public and of discharging the legal responsibilities of the county, and because of the decreased availability of general county revenue to defray costs, the Board declares it to be in the interests of the people of the county for the fees established in this code of ordinances to be imposed and collected by the county from the persons directly served or affected by the provision of such services and the performance of such responsibilities.

(' 90 Code, § 5.10.005, 07/01/1998; Ord. 105, passed, 07/10/1975)

§ 11.002 FEES FOR PUBLICATIONS AND RECORDS.

The director of each department of the county shall establish a schedule of fees, which shall be conspicuously posted at appropriate locations, for publications and copies of records provided by the department. The fees for copies of records shall, where appropriate, differentiate between and specify fees for copies according to the method and format of reproduction. The fees authorized by this section shall be based upon actual cost as determined by the directors.

(' 90 Code, § 5.10.060, 07/01/1998; Ord. 157, passed, 12/29/1977)

§ 11.003 FEES FOR TAPES AND DOCUMENTS PROVIDED BY THE CLERK OF THE BOARD'S OFFICE.

The fees for the code and duplication of the records of the Board shall be set by the office of the Board clerk to cover the actual cost of printing and distribution.

(' 90 Code, § 5.10.080, 07/01/1998; Ord. 706, passed, 12/05/1991; Ord. 459, passed, 02/28/1985; Ord. 390, passed, 09/01/1983)

PERSONAL PROPERTY TAX SALES**§ 11.100- SALE FOR AMOUNT DUE.**

The personal property tax collector or any deputy or agent shall first attempt at public auction to sell seized personal property for the taxes, interest and penalties due.

(‘ 90 Code, § 5.20.005, 07/01/1998; Ord. 734, passed, 10/01/1992)

§ 11.101 INSUFFICIENT BID.

(A) If no bidder at the sale offers to pay the amount due, the personal property tax collector may then attempt to sell the property at the same auction.

(B) The personal property tax collector shall sell the property at the auction if, based on the information available at the time, it is determined that:

(1) The county may incur significant costs to keep the property until a later sale;

(2) The county may not get the best possible price at a later sale.

(‘ 90 Code, § 5.20.010, 07/01/1998; Ord. 734, passed, 10/01/1992)

MOTOR VEHICLE FUEL TAX**§ 11.200- DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context requires a different meaning.

AIRCRAFT FUEL. Any gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of aircraft, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of aircraft.

DEALER. Any person who:

(1) Imports or causes to be imported motor vehicle fuel for sale, use or distribution in, and after the same reaches the county. **DEALER** does not include any person who imports into the county motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under this subchapter and who assumes liability for the payment of the applicable license fee to the county; or

(2) Produces, refines, manufactures or compounds motor vehicle fuels in the county for use, distribution or sale in the county; or

(3) Acquires in the county for sale, use or distribution in the county motor vehicle fuels with respect to which there has been no license fee previously incurred.

DISTRIBUTION. In addition to its ordinary meaning, also includes the delivery of motor vehicle fuel by a dealer or subdealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer or subdealer.

DIVISION. The Motor Vehicles Division of the Department of Transportation.

HIGHWAY. Every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

MOTOR VEHICLE. All vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

MOTOR VEHICLE FUEL. Includes gasoline and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas or liquid, the chief use of which, as determined by the Division, is for purposes other than the propulsion of motor vehicles upon the highways of the state. The term shall not include diesel fuel.

SERVICE STATION. Includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

SUBDEALER. Includes every person other than a dealer engaging in the business of handling motor vehicle fuel for sale and distribution both within and without the county.

(* 90 Code, § 5.30.010, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.201 FEE IMPOSED;
ADMINISTRATION BY
DIVISION.**

A business license fee is imposed on every dealer or subdealer. The fee imposed shall be paid monthly to the Division, as agent for the county. The Division is designated the agent of the county for the purposes of administering the business license fee imposed by this subchapter and is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the fee as it is authorized under ORS 319.010 to 319.430 with regard to the business license tax imposed by these provisions.

(* 90 Code, § 5.30.020, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.202 MONTHLY STATEMENT BY DEALER; AMOUNT OF FEE.

(A) Subject to divisions (B) and (C) of this section, in addition to any fees or taxes otherwise provided for by law, every dealer and subdealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the county, in the sale, use or distribution of motor vehicle fuel or withdrawal of motor vehicle fuel for sale, use or distribution within areas in the county within which the county has the power to tax the sale, use or distribution of motor vehicle fuel, shall:

(1) No later than the 25th day of each calendar month, render a statement to the Division of all motor vehicle fuel sold, used, distributed or so withdrawn by him in the county as well as all such fuel sold, used or distributed in the county by a purchaser thereof upon which sale, use or distribution the dealer is liable for the applicable license fee during the preceding calendar month.

(2) Pay a license fee computed as of October 1, 1981, on the basis of \$0.03 per gallon of such motor vehicle fuel, upon which no license fee has previously been paid or is otherwise due under this subchapter, so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in this subchapter.

(B) In lieu of claiming refund of the fee paid as to motor vehicle fuel consumed by the dealer or subdealer in nonhighway uses as provided in §§ 11.219, 11.220, and 11.223, or of any prior erroneous payment of license fee made to the county by the dealer or subdealer, the dealer or subdealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of fee.

(C) The license fee shall not be imposed whenever it is prohibited by the constitution or laws of the United States or the state.

(‘ 90 Code, § 5.30.030, 07/01/1998; Ord. 273, passed, 05/14/1981; Ord. 123, passed, 04/15/1976)

§ 11.203 LICENSE REQUIRED.

No dealer shall sell, use or distribute any motor vehicle fuel until he has secured a dealer's license as required by this subchapter. No subdealer shall sell, use or distribute any motor vehicle fuel until he has secured a subdealer's license as required by this subchapter.

(‘ 90 Code, § 5.30.040, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.204 APPLICATION AND ISSUANCE OF LICENSE.

(A) Every person, before becoming a dealer or subdealer in motor vehicle fuel in the county, shall make an application to the Division for a license authorizing such person to engage in business as a dealer or subdealer.

(B) Applications for the license must be made on forms prescribed, prepared and furnished by the Division.

(C) The applications shall be accompanied by a duly acknowledged certificate containing the following:

(1) The business name under which the dealer or subdealer is transacting business within the county;

(2) The place of business and location of distributing stations in the county; and

(3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent.

(D) The application for a motor vehicle fuel dealer's or subdealer's license having been accepted for filing, the Division shall issue to the dealer or subdealer a license in such form as the Division may prescribe to transact business in the county. The license so issued is not assignable, and is valid only for the dealer or subdealer in whose name issued.

(E) The Division shall keep and file all applications with an alphabetical index thereof, together with a record of all licensed dealers and subdealers. (' 90 Code, § 5.30.050, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.205 FAILURE TO SECURE LICENSE; DELINQUENCY PENALTY.

(A) If any dealer or subdealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the license required by § 11.204, the license fee shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

(B) The Division shall proceed forthwith to determine, from the best available sources, the amount of such fee, and it shall assess the fee in the amount found due, together with a penalty of 100% of the fee, and shall make its certificate of such assessment and penalty. In any suit or proceeding to collect such fee or penalty or both, the certificate is prima facie evidence that the dealer or subdealer therein named is indebted to the county in the amount of the fee and penalty therein stated.

(C) Any fee or penalty so assessed may be collected in the manner prescribed in § 11.209 with reference to delinquency in payment of the fee or by an action at law, which the Division, through the Attorney General, shall commence and prosecute to final determination at the request of the Division. (' 90 Code, § 5.30.060, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.206 REVOCATION OF LICENSE.

The Division shall revoke the license of any dealer or subdealer refusing or neglecting to comply with any provision of this subchapter. The Division shall mail by registered mail addressed to such dealer or subdealer at his last known address appearing on the files of the Division, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within ten days from

the mailing of the notice the dealer or subdealer has not made good its default or delinquency. (' 90 Code, § 5.30.070, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.207 CANCELLATION OF LICENSE.

(A) The Division may, upon written request of a dealer or subdealer, cancel any license issued to such dealer or subdealer, the cancellation to become effective 30 days from the date of receipt of the written request.

(B) If the Division ascertains and finds that the person to whom a license has been issued is no longer engaged in the business of a dealer or subdealer, the Division may cancel the license of such dealer or subdealer upon investigation after 30 days' notice has been mailed to the last-known address of the dealer or subdealer. (' 90 Code, § 5.30.080, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.208 REMEDIES CUMULATIVE.

Except as otherwise provided in §§ 11.209 and 11.211, the remedies provided in §§ 11.205 to 11.207 are cumulative. No action taken pursuant to those sections shall relieve any persons from the penalty provisions of this subchapter. (' 90 Code, § 5.30.090, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.209 PAYMENT OF FEE AND DELINQUENT PENALTY.

(A) The license fee imposed by §§ 11.201 and 11.202 shall be paid on or before the 25th day of each month to the division which, upon request, shall receipt the dealer or subdealer therefor.

(B) Except as provided in division (D) of this section, to any license fee not paid as required by division (A) of this section there shall be added a penalty of 1% of such license fee.

(C) Except as provided in division (D) of this section, if the fee and penalty required by division (B) of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of 10%

shall be paid in addition to the penalty provided for in division (B) of this section.

(D) If the Division determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by divisions (B) and (C) of this section shall be waived. Penalties imposed by this section shall not apply when the penalty provided in § 11.205 has been assessed.

(E) If any person fails to pay the license fee or any penalty provided for by this subchapter, the amounts thereof shall be collected from such person for the use of the county. The Division, through the Attorney General, shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.

(F) No dealer who collects from any person the fee provided for in this subchapter shall knowingly and wilfully fail to report and pay the same to the Division as required by this subchapter.
(‘ 90 Code, § 5.30.100, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.210 MONTHLY STATEMENTS REQUIRED.

Every dealer or subdealer in motor vehicle fuel shall render to the Division, on or before the 25th day of each month, on forms prescribed, prepared and furnished by the Division, a signed statement of the number of gallons of motor vehicle fuel sold, distributed or used by him during the preceding calendar month. The statement shall be signed by one of the principal officers, or by an authorized agent in the case of a corporation; or by the managing agent or owner in case of a firm or association. All statements filed with the Division, as required in this section, are public records.
(‘ 90 Code, § 5.30.110, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.211 FAILURE TO FILE MONTHLY STATEMENT.

If any dealer or subdealer, except one subject to § 11.205, fails to file the report required by § 11.210, the Division shall proceed forthwith to de-

termine from the best available source the amount of motor vehicle fuel sold, distributed or used by such dealer or subdealer for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed or used. The Division immediately shall assess the license fee in the amount so determined, adding thereto a penalty of 10% for failure to report. The penalty shall be cumulative to other penalties provided in this subchapter. In any suit brought to enforce the rights of the county under this section, the certificate of the Division showing the amount of fees, penalties and costs unpaid by any dealer or subdealer and that the same are due and unpaid to the county is prima facie evidence of the facts as shown.
(‘ 90 Code, § 5.30.120, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.212 BILLING PURCHASERS.

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers or subdealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the Division the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Division are maintained. The bills required hereunder may be the same as or incorporated in those required under ORS 319.210.
(‘ 90 Code, § 5.30.130, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.213 RECEIPT, PAYMENT OR SALE WITHOUT INVOICE OR DELIVERY TAG PROHIBITED.

No person shall receive and accept any shipment of motor vehicle fuel from any dealer or subdealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer or subdealer in motor vehicle fuel.
(‘ 90 Code, § 5.30.140, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.214 TRANSPORTING MOTOR VEHICLE FUEL IN BULK.

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor

vehicle fuel in bulk shall, before entering upon the public highways of the county with such conveyance, have and possess during the entire time of his hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any sheriff, deputy sheriff, constable, state police or other officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

('90 Code, § 5.30.150, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.215 EXPORT FUEL EXEMPTED.

(A) The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on motor vehicle fuel:

(1) Exported from the county by a dealer or subdealer; or

(2) Sold by a dealer or subdealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the county in containers other than the fuel tank of a motor vehicle, but every dealer or subdealer shall be required to report such exports and sales to the division in such detail as may be required.

(B) In support of any exemption from license fees claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer or subdealer must execute and file with the Division an export certificate in such form as shall be prescribed, prepared and furnished by the Division, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the county, and giving such details with reference to such shipment as the Division may require. The Division may demand of any dealer or subdealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Division may, in a case where

it believes no useful purpose would be served by filing of an export certificate, waive the certificate.

(C) Any motor vehicle fuel carried from the county in the fuel tank of a motor vehicle shall not be considered as exported from the county, except that a refund of the fee may be paid on such fuel as provided in § 11.219.

(D) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the county fee has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the county and fail to notify the Division and the dealer or subdealer from whom the motor vehicle fuel was originally purchased of his act.

(E) No dealer, subdealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the county for sale or use so as to avoid any of the fees imposed by this subchapter.

(F) In support of any exemption from fees on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Division. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

('90 Code, § 5.30.160, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.216 SALES TO ARMED FORCES EXEMPTED.

The license fee imposed by §§ 11.201 and 11.202 shall not be imposed on any motor vehicle fuel sold to the armed forces of the United States for use in ships, aircraft or for export from the county; but every dealer or subdealer shall be required to report such sales to the Division in such detail as may be required. A certificate by an authorized officer of such armed forces shall be accepted by the dealer as

sufficient proof that the sale is for the purpose specified in the certificate.

(‘90 Code, § 5.30.170, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.217 FUEL IN VEHICLES COMING INTO COUNTY NOT TAXED.

Any person coming into the county in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his own use only and for the purpose of operating such motor vehicle without securing a license or paying the fee provided in §§ 11.201 and 11.202, or complying with any of the provisions imposed upon dealers by this subchapter, but if the motor vehicle fuel so brought into the county is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person is so importing the fuel into the county and shall be subject to all the provisions in this subchapter applying to dealers.

(‘90 Code, § 5.30.180, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.218 FUEL SOLD OR DELIVERED TO DEALERS OR SUBDEALERS.

(A) A dealer or subdealer selling or delivering motor vehicle fuel to dealers or subdealers is not required to pay a license fee thereon.

(B) The dealer or subdealer in rendering monthly statements to the Division as required by §§ 11.201 and 11.210 shall show separately the number of gallons of motor vehicle fuel sold or delivered to dealers or subdealers.

(‘90 Code, § 5.30.190, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.219 REFUNDS.

(A) Any person who has paid any fees on motor vehicle fuel imposed or directed to be paid under this subchapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of such fee paid by him, except as provided in §§ 11.220 and 11.223, if such person has:

(1) Purchased and used such fuel for the purpose of operating or propelling stationary gas engines, tractors or motorboats if the motorboat is used for commercial purposes at any time during the period for which the refund is claimed;

(2) Purchased and used such fuel for cleaning or dyeing or other commercial use, except when used in motor vehicles operated upon any highway;

(3) Purchased and exported such fuel from the county, in containers other than fuel supply tanks of motor vehicles; or

(4) Purchased and exported such fuel in the fuel supply tank of a motor vehicle and has used such fuel to operate the vehicle upon the highways of another state, if the user has paid to the other state a similar motor vehicle fuel fee or tax on the same fuel, or has paid any other highway use tax the rate for which is increased because such fuel was not purchased in, and the fee or tax thereon paid, to such state.

(B) When a motor vehicle with auxiliary equipment uses fuel and there is no auxiliary motor for such equipment or separate tank for such a motor, a refund may be claimed and allowed as provided by division (D) of this section, except as otherwise provided by this division (B), without the necessity of furnishing proof of the amount of fuel used in the operation of the auxiliary equipment. The person claiming the refund may present to the Division a statement of his claim and be allowed a refund as follows:

(1) For fuel used in pumping aircraft fuel, motor vehicle fuel, fuel or heating oils or other petroleum products by a power takeoff unit on a delivery truck, refund shall be allowed claimant for the fee paid on fuel purchased at the rate of $\frac{3}{4}$ of one gallon for each 1,000 gallons of petroleum products delivered.

(2) For fuel used in operating a power take-off unit on a cement mixer truck or on a garbage truck, claimant shall be allowed a refund of 25% of the fee paid on all fuel used in such a truck.

(C) When a person purchases and uses motor vehicle fuel in a vehicle equipped with a power takeoff unit, a refund may be claimed for fuel used to operate the power takeoff unit provided the vehicle is equipped with a metering device approved by the Division and designed to operate only while the vehicle is stationary and the parking brake is engaged; the quantity of fuel measured by the metering device shall be presumed to be the quantity of fuel consumed by the operation of the power takeoff unit.

(D) Before any such refund may be granted, the person claiming such refund must present to the Division a statement accompanied by copies of the original invoices showing such purchases; provided that in lieu of such invoices, refunds submitted under division (A)(4) of this section shall be accompanied by information showing source of fuel used and evidence of payment of fee or tax to the state in which the fuel was used. The statement shall be made over the signature of the claimant, and shall state the total amount of such fuel for which is entitled to be reimbursed under division (A) of this section. The Division, upon the presentation of the statement and invoices, or other required documents, shall cause to be repaid to the claimant from the fees collected on motor vehicle fuel such fees so paid by the claimant.

(‘ 90 Code, § 5.30.200, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.220 LIMITATION ON
APPLICATIONS FOR REFUNDS.**

Applications for refunds made under §§ 11.219 and 11.223 to 11.227 must be filed with the Division before the expiration of 15 months from the date of purchase or invoice, except that unused fuel reported as an ending inventory on any claim may be included in a subsequent claim if presented not later than 15 months from the filing date of the claim which established the inventory. All applications for refunds based upon exportation of motor vehicle fuel from this state in the fuel supply tank of a motor vehicle must be filed with the Division before the expiration of 15 months from the last day of the month in which the fuel was used, or before the expiration of 15 months from the date of an assessment for unpaid fee or tax by the state in which the fuel was used.

(‘ 90 Code, § 5.30.210, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.221 SELLER TO GIVE INVOICE
FOR EACH PURCHASE MADE
BY PERSON ENTITLED TO
REFUND.**

(A) When motor vehicle fuel is sold to a person who claims to be entitled to a refund of the fee imposed, the seller of the motor vehicle fuel shall make and deliver at the time of the sale separate invoices for each purchase in such form and containing any information prescribed by the Division.

(B) The invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof. Any person who alters any part of any invoice that will tend to give to the claimant an illegal gain, shall have the entire claim invalidated. The seller shall for a period of at least 18 months retain copies of all invoices and make them available to the Division upon request.

(C) The invoices required by this section may be the same as or incorporated in those required under ORS 319.300.

(‘ 90 Code, § 5.30.220, 07/01/1998; Ord. 123, passed, 04/15/1976)

**§ 11.222 CLAIMS FOR REFUNDS;
INVESTIGATION.**

(A) The Division may require any person who makes claim for refund of fee on motor vehicle fuel to furnish a statement, under oath, giving his occupation, description of the machines or equipment in which the motor vehicle fuel was used, the place where used and such other information as the Division may require.

(B) The Division may investigate claims and gather and compile such information in regard to the claims as it considers necessary to safeguard the county and prevent fraudulent practices in connection with fee refunds and evasions. The Division may, in order to establish the validity of any claim, examine the books and records of the claimant for such purposes. The records shall be in such form and contain such information as the Division may require. Failure of the claimant to maintain such records or to accede to the demand for such examina-

tion constitutes a waiver of all rights to the refund claimed on account of the transaction questioned.

(* 90 Code, § 5.30.230, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.223 REFUND OF FEE ON FUEL USED IN OPERATION OF VEHICLES OVER CERTAIN ROADS OR PRIVATE PROPERTY.

(A) Except where a refund is authorized by §§ 11.225 or 11.226, upon compliance with division (B) or (C) of this section the Division shall refund, in the manner provided in division (B) or (C) of this section, the fee on motor vehicle fuel that is used in the operation of a motor vehicle:

(1) By any person on any road, thoroughfare or property in private ownership.

(2) By any person on any road, thoroughfare or property, other than a state highway, county road or city street, for the removal of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or for the construction or maintenance of the road, thoroughfare or property, pursuant to a written agreement or permit authorizing the use, construction or maintenance of the road, thoroughfare or property, with or by:

(a) An agency of the United States;

(b) The State Board of Forestry;

(c) The State Forester; or

(d) A licensee of any agency named in divisions (A)(2)(a), (b) or (c) of this section.

(3) By an agency of the United States or of the state or any county, city or port of the state on any road, thoroughfare or property, other than a state highway, county road or city street.

(4) By any person on any county road for the removal of forest products, as defined in ORS 321.005, or the products of such forest products

converted to a form other than logs at or near the harvesting site, if:

(a) The use of the county road is pursuant to a written agreement entered into with, or to a permit issued by, the State Board of Forestry, the State Forester or an agency of the United States, authorizing such person to use such road and requiring such person to pay for or to perform the construction or maintenance of the county road;

(b) The Board, officer or agency that entered into the agreement or granted the permit, by contract with the County Court or Board, has assumed the responsibility for the construction or maintenance of such county road; and

(c) Copies of the agreements or permits required by divisions (A)(4)(a) and (b) of this section are filed with the Division.

(B) Except for a farmer subject to division (C) of this section, the person or agency, as the case may be, who has paid any fee on such motor vehicle fuels imposed or directed to be paid, as provided by this subchapter, is entitled to claim a refund of the fee so paid on such fuels or for the proportionate part of the fee paid on fuels used in the operation of such vehicles, when part of the operations are over such road, thoroughfares or property. The proportionate part shall be based upon the number of miles traveled by any such vehicle over such roads, thoroughfares or property as compared to the total number of miles traveled by such vehicle. To be eligible to claim such refund the person or agency, as the case may be, shall first establish and maintain a complete record of the operations, miles traveled, gallons of fuel used and other information, in such form and in such detail as the Division may prescribe and require, the source of supply of all fuels purchased or used, and the particular vehicles or equipment in which used. Whenever any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(C) A farmer who has paid any fee on motor vehicle fuels imposed or directed to be paid, as pro-

vided by this subchapter, is entitled to claim a refund of the fee paid on such fuels used in farming operations in the operation of any motor vehicle on any road, thoroughfare or property in private ownership. To be eligible to claim such refund a farmer shall maintain in such form and in such detail as the Division may prescribe and require, a record, supported by purchase invoices, of all such motor vehicle fuel purchased (including fuel purchased to operate any motor vehicle on the highway) and, for each and every motor vehicle operated on the highway, a record of all fuel used and of all miles traveled on the highway. Whenever any such claim is received and approved by the Division, it shall cause the refund of fee to be paid to the claimant in like manner as provided for paying of other refund claims.

(D) As used in divisions (B) and (C) of this section, *FARMER* includes any person who manages or conducts a farm for the production of livestock or crops but does not include a person who manages or conducts a farm for the production of forest products, as defined in ORS 321.005, or the products of such forest products converted to a form other than logs at or near the harvesting site, or of forest trees unless the production of such forest products or forest trees is only incidental to the primary purpose of the farming operation.

(‘ 90 Code, § 5.30.240, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.224 REFUNDS TO PURCHASERS OF FUEL FOR AIRCRAFT.

Whenever any statement and invoices are presented to the Division showing that motor vehicle fuel has been purchased and used in operating aircraft engines and upon which the fee on motor vehicle fuel has been paid, the Division shall refund the fee paid.

(‘ 90 Code, § 5.30.250, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.225 REFUNDS TO COUNTIES AND ROAD ASSESSMENT DISTRICTS.

Any county or road assessment district formed under ORS 371.405 to 371.535, which buys and uses any motor vehicle fuel for the purpose of operating or propelling road maintainers, graders, trac-

tors, trucks and other equipment used in the construction and maintenance of public highways and which has paid any fee on motor vehicle fuel imposed or directed to be paid under this chapter either directly by the collection of the fee by the vendor from the consumer, or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by the county or road assessment district as provided by §§ 11.219 through 11.224 of this subchapter if such machinery is used exclusively for the maintenance and construction of such public highways.

(‘ 90 Code, § 5.30.260, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.226 REFUNDS TO STATE, COUNTIES, AND CITIES.

(A) The state, counties and any city, by its proper officer or officers, may secure from the county a refund of any and all fees imposed and collected by the county on any motor vehicle fuel purchased and used by the state, counties, or such city.

(B) The Division may establish rules necessary to safeguard the county in the matter of the fee refunds authorized in this section. Noncompliance with any of such rules by the state or any incorporated city or town claiming refund under this section is grounds for refusal by the Division to allow such claims.

(C) The procedure for refund of fees provided by §§ 11.219 through 11.224 of this subchapter shall apply insofar as applicable to claims for the refunds authorized by this section.

(‘ 90 Code, § 5.30.270, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.227 REFUND OF FEE ON FUEL USED IN TRANSPORTATION OF RURAL MAIL.

(A) All fees collected by the county on the sale, use or distribution of any motor vehicle fuel used exclusively in the transportation of rural free delivery mail or special delivery mail of the United States shall be refunded to the person paying the fee if the person is engaged solely and exclusively in the transportation of rural free delivery mail or special delivery mail of the United States.

(B) Any person engaged solely and exclusively in transportation of rural free delivery or special delivery mail of the United States, who buys any motor vehicle fuel and uses it exclusively in the transportation of rural free delivery mail or special delivery mail of the United States, and who has paid any fee on motor vehicle fuel, either directly by the collection of the fee by the vendor from the consumer or indirectly by adding the amount of the fee to the price of the fuel and paid by the consumer, shall be reimbursed and repaid the amount of the fee paid by him upon presenting to the Division a statement accompanied by the original invoice showing the purchase. The statement shall be made over the signature of the claimant and shall state the total amount of fuel so purchased and used by the consumer for the transportation of rural free delivery mail or special delivery mail of the United States. The Division, upon the presentation of the statement and the voucher, shall cause to be repaid to the consumer, from the fees collected on motor vehicle fuels, the fees so paid by the consumer on motor vehicle fuels so used.

(‘ 90 Code, § 5.30.280, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.228 EXAMINATIONS AND INVESTIGATIONS; CORRECTION OF REPORTS.

The Division may make any examination of the accounts, records, stocks, facilities and equipment of dealers, subdealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this county, and such other investigations as it considers necessary in carrying out the provisions of this chapter. If the examinations or investigations disclose that any reports of dealers, subdealers or other persons filed with the Division pursuant to the requirements of this chapter, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the fee accruing, the Division may make such changes in subsequent reports and payments of such dealers, subdealers or other

persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.

(‘ 90 Code, § 5.30.290, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.229 LIMITATION ON CREDIT FOR OR REFUND OF OVERPAYMENT AND ON ASSESSMENT OF ADDITIONAL FEE.

(A) Except as otherwise provided in this subchapter, any credit for erroneous overpayment of fee made by a dealer or subdealer taken on a subsequent return or any claim for refund of fee erroneously overpaid filed by a dealer or subdealer must be taken or filed within three years after the date on which the overpayment was made to the county.

(B) Except in the case of a fraudulent report or neglect to make a report, every notice of additional fee proposed to be assessed under this subchapter shall be served on dealers and subdealers within three years from the date upon which such additional fees become due.

(‘ 90 Code, § 5.30.300, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.230 EXAMINING BOOKS AND ACCOUNTS OF CARRIER OF MOTOR VEHICLE FUEL.

The Division may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the county for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of fees in enforcing the provisions of this chapter.

(‘ 90 Code, § 5.30.310, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.231 RECORDS TO BE KEPT BY DEALERS.

Every dealer or subdealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the Division of all purchases, receipts, sales and distribution of motor fuel. The records shall include copies of all invoices or bills of all

such sales and shall at all times during the business hours of the day be subject to inspection by the Division or its designees.

('90 Code, § 5.30.320, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.232 RECORDS TO BE KEPT THREE YEARS.

Every dealer and subdealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the county by such dealer or subdealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Division. In the event such records are not kept within the state, the dealer or subdealer shall reimburse the Division for all travel, lodging and related expenses incurred by the Division in examining such records. The amount of such expenses shall be an additional fee imposed under this chapter.

('90 Code, § 5.30.330, 07/01/1998; Ord. 123, passed, 04/15/1976)

§ 11.233 USE OF FEE.

(A) Except as provided by division (B) of this section the fees collected under this subchapter, after deducting the costs of administration and collection, shall be used by the county solely for the purposes prescribed by the state constitution for the use of taxes upon motor vehicle fuel; but may be shared by agreement with a city or cities situated in whole or in part within its boundaries for those purposes.

(B) (1) On or before August 15 of each year, the Director of the Department of County Management shall determine as accurately as possible the amount of the motor vehicle fuel tax imposed under §§ 11.201 through 11.218 of this subchapter during the preceding fiscal year with respect to fuel purchased and used to operate or propel motorboats. The amount determined shall be reduced by the amount of any refunds for motorboats used for commercial purposes actually paid during the preceding year on account of § 11.219(A)(1) of this subchapter.

(2) The amount of the estimate made under division (B)(1) of this section as reduced by refunds shall be transferred to Metro on or before September 30 of each year to be used solely for the acquisition,

development, administration, operation, and maintenance of any Metro-owned or operated facility which was transferred by the county to Metro.

(3) The county is authorized to enter onto an agreement with the Department of Transportation of the state to administer, collect and deposit all revenue due under this chapter. The Department of Transportation may be reimbursed for its administrative costs from the funds collected pursuant to this chapter.

(Ord. 1061, Amended, 05/26/2005, eff. 7/1/2005; Ord. 978, Amended, 03/07/2002; Ord. 971, Amended, 12/20/2001; Ord. 956, Amended, 01/18/2001; '90 Code, § 5.30.340, 07/01/1998; Ord. 862, passed, 07/11/1996; Ord. 588, passed, 08/04/1988; Ord. 273, passed, 05/14/1981; Ord. 123, passed, 04/15/1976)

MOTOR VEHICLE RENTAL TAX**§ 11.300- DEFINITIONS.**

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

CAR SHARING ORGANIZATION. A profit or non-profit organization with membership requirements that provides the use of motor vehicles exclusively to its members for a fee.

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

DIRECTOR. The Finance Director of the county.

DOING BUSINESS IN THE COUNTY. Any of the following conduct by a commercial establishment whose business address is within or outside the county:

(1) Delivery of a rented vehicle to a location within the county for use by a person within the county; or

(2) Presenting for execution within the county by any person a car rental agreement.

EXEMPTION AREA. Multnomah, Washington and Clackamas Counties.

MOTOR VEHICLE. Without limitation, automobiles, trucks having a manufacturer's gross vehicle weight not exceeding 24,000 pounds, motor homes, motorcycles, pickup campers and any motorized passenger vehicles designed to carry fewer than ten persons, which are capable of being used on the highways of the state.

REGIONAL CHILDREN'S CAMPUS (RCC) BONDS AND PARITY OBLIGATIONS. (a) Motor Vehicle Rental Tax Revenue Bonds, Series 2000A and 2000B dated November 1, 2000, (b) any obligations issued to refund obligations described in clause (a) of this definition.

RENTAL FEE. The gross fee and charges, whatever the basis of their calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

RENTAL or RENTING. Obtaining in the county the use of a motor vehicle from a commercial establishment in the 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.

YEAR ONE. Fiscal Year 2000-2001.
(Ord. 1132, Amended, 05/14/2009; Ord. 957, Amended, 01/25/2001; Ord. 942, Amended, 02/17/2000; Ord. 934, Amended, 07/29/1999; '90 Code, § 5.40.010, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 627, passed, 08/17/1989; Ord. 519, passed, 06/19/1986; Ord. 417, passed, 05/01/1984; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.301 IMPOSITION OF TAX.

(A) A tax is imposed on every person renting a motor vehicle from a commercial establishment doing business in the county, if the rental is for a period of 30 days or less. A rental must 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.

(B) The base rate of the tax imposed by subsection (A) is equal to 14.5% of the rental fee charged by the commercial establishment for the rental.

(C) The surcharge rate of the tax imposed by subsection (A) is equal to 2.5% of the rental fee charged by the commercial establishment for the rental. This 2.5% surcharge will terminate if the 2.5% transient lodging tax imposed by § 11.401(E) is terminated before the issuance of the bonds defined in § 11.400.

(D) 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 must charge a tax equal to the next highest

whole cent. However, the amount remitted to the Director by the commercial establishment for each quarter must equal 17% of the total rental fees collected by the commercial establishment during the quarter.

Penalty, see § 11.399

(Ord. 1132, Amended, 05/14/2009; Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.050, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

**§ 11.302 COLLECTION OF TAX;
REMITTANCE RECORDS; TAX
AS DEBT.**

(A) The commercial establishment must collect the tax imposed by § 11.301 at the time it collects a rental fee.

(B) On or before the last business day of January, April, July and October of each year, each commercial establishment must remit to the Director all taxes collected during the preceding calendar quarter. The remittance must be accompanied by a report showing:

(1) The amount of the rental fees collected by the commercial establishment during the preceding quarter;

(2) The amount, if any, of those rental fees that is attributable to and identified on the records or billings of the commercial establishment for gasoline sales;

(3) Such further information as the Director may prescribe;

(C) The report and all such additional information as required from the commercial establishment accompanying remittance of the collected tax is exempt from public disclosure and remains confidential in the possession of the Director.

(D) All commercial establishments must maintain accurate records of rental fees assessed and of taxes collected, and such records are subject to review, inspection and audit within the county by the Director or the director's designee at all reasonable times.

(E) The commercial establishment that rents a vehicle in the county is responsible for remittance of the tax, based on the total rental fee, wherever collected, as well as maintenance of the appropriate records of the fees.

(F) The tax imposed by § 11.301 is a debt owed by the commercial establishment to the county until remitted under this section.

Penalty, see § 11.399

(Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.075, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

**§ 11.303 TAX EVASION OR DEFICIENCY
DETERMINATION.**

(A) If the Director determines that the report required in § 11.302(B) has not been filed or is incorrect, the Director may compute and determine the amount required to be paid upon the basis of the facts contained in any report or reports, or upon the basis of any available information. One or more deficiency or evasion determinations may be made of the amount due for one or more than one period. The amount so determined is due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies will be applied under § 11.399.

(B) In making a determination, the Director may offset any overpayments previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. Interest on underpayments will accrue at the rate of one percent per month pro rata from the date the tax became delinquent until the date paid.

(C) The Director will give written determination notice to the commercial establishment, served personally or by certified mail. If mail service is employed, service is deemed made upon mailing.

(D) Except where fraud or intent to evade this subchapter exists, every deficiency determination must be made and notice given within three years after the last day of the month following the close of

the quarterly reporting period for which the amount is proposed to be determined, or within three years after the report reflecting an underpayment is filed, whichever period expires later.

Penalty, see § 11.399

(Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.080, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983)

§ 11.304 USE OF TAXES.

(A) The 14.5% base taxes collected under this subchapter are general fund revenues of the county, except that the portion of taxes attributable to gasoline sales are subject to the limitations on use prescribed by the constitution and laws of the state.

(B) All 2.5% surcharge taxes collected under this subchapter will be deposited in the Visitors Facilities Trust Account (VFTA) created by 11.401(E) and allocated as provided by 11.401(E)(4). The Board is authorized under Home Rule authority to enter an intergovernmental agreement with the City of Portland to pledge the County to maintain this surcharge to pay the bonds and other obligations identified in 11.401(E). Such pledge is binding under ORS 288.594 from April 1, 2000 as long as the 11.401(E) bonds are outstanding.

(Ord. 1132, Amended, 05/14/2009; Ord. 957, Amended, 01/25/2001; Ord. 942, Amended, 02/17/2000; ' 90 Code, § 5.40.100, 07/01/1998; Ord. 122, passed, 04/15/1976)

§ 11.305 EXEMPTIONS.

The tax imposed by 11.301 is not applicable to:

(A) A rental fee that state or federal law exempts from the tax.

(B) A rental fee for a motor vehicle used for official governmental business by an employee of the federal government.

(C) A motor vehicle rented by a resident of the exemption area to temporarily replace a vehicle being repaired or serviced.

(D) A motor vehicle rented in the county by a member of a car sharing organization who is a resident of the exemption area

(Ord. 942, Amended, 02/17/2000; Ord. 934, Amended, 07/29/1999; ' 90 Code, § 5.40.125, 07/01/1998; Ord. 627, passed, 08/17/1989; Ord. 592, passed, 09/29/1988; Ord. 122, passed, 04/15/1976)

§ 11.306 LICENSE REQUIRED.

Every commercial establishment shall be required to obtain from the Director a one-time only, non-transferable, non-renewable license for its operation in the county. A license shall be required for each site within the county. The Director shall collect a fee in an amount set by Board resolution for each license issued.

Penalty, see § 11.399

(' 90 Code, § 5.40.150, 07/01/1998; Ord. 849, passed, 04/11/1996; Ord. 592, passed, 09/29/1988; Ord. 407, passed, 12/11/1983; Ord. 122, passed, 04/15/1976)

§ 11.307 DIRECTOR'S RULES.

The Director is authorized to establish rules and procedures for the implementation and enforcement of this subchapter.

(' 90 Code, § 5.40.175, 07/01/1998; Ord. 122, passed, 04/15/1976)

§ 11.399 PENALTY.

(A) In addition to any other penalties prescribed by law, any commercial establishment which fails to collect and remit all taxes collected by it or otherwise fails to comply with this subchapter shall be subject to a penalty equal to 50% of any deficiency in the taxes remitted by it, or to such lesser penalty as the director may assess.

(B) The penalty imposed by division (A) of this section shall be a debt owed by the commercial establishment to the county.

(C) Any person who willfully violates any provision of this subchapter shall, upon conviction, be subject to a fine of not more than \$500, imprisonment in the county jail for not more than six months, or both.

(' 90 Code, § 5.40.900, 07/01/1998; Ord. 122, passed, 04/15/1976)

TRANSIENT LODGINGS TAX**§ 11.400- DEFINITIONS.**

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

ACCRUAL ACCOUNTING. An accounting method where the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

ADMINISTRATIVE FEE. The County Trust Account Fee that is the Indirect Flow-Through Rate that is published annually in the County Indirect Cost Rates and Countywide Cost Allocation Plan and charged to internal accounts.

BONDS. Collectively, the Convention Center Completion Bonds, the Civic Stadium Bonds and the Portland Center for Performing Arts (PCPA) Bonds.

CASH ACCOUNTING. An accounting method where the operator does not enter the rent due from a transient on the records until rent is paid.

CIVIC STADIUM BONDS. Bonds or other obligations issued by the City of Portland (City) to fund Civic Stadium improvements in an amount not to exceed \$35,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION BONDS. Bonds or other obligations issued by the City to fund the Convention Center Completion Project in an amount not to exceed \$100,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION PROJECT. The expansion of the Oregon Convention Center (OCC) facilities to include approximately 105,000 square feet of exhibit space, a 35,000 square foot ballroom, a total of 40 meeting rooms, 35,000 square feet of lobby space, a 825 space parking garage and 10 loading docks.

CPI. The annual average percent change in the Portland Salem OR-WA CPI-U as issued by the U.S. Department of Labor, Bureau of Labor Statis-

tics for the most recent 12-month calendar year period, or a comparable measure of price change if this index is not available.

CULTURAL TOURISM. A program or programs to attract visitors to the Portland area to attend cultural and recreational events and exhibits.

FACILITIES. The Oregon Convention Center, the Portland Center for the Performing Arts, the Exposition Center, and neighborhood arts programs.

HOTEL. Any structure, or any portion of any structure that is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also includes space in mobile home or trailer parks, or similar structure or space if occupancy is for less than a 30-day period.

NEIGHBORHOOD ARTS. Arts programs aimed at increased community and educational exposure to arts and involvement in artistic endeavors to enhance the quality of life in the region thus increasing tourism and increasing support for cultural programs.

NET REVENUES. The collections (including delinquent interest and penalties) from the 2.5% surcharge transient lodging tax (MCC § 11.401(E)), the collections (including delinquent interest and penalties) from the 2.5% surcharge vehicle rental tax (MCC § 11.301(C)), and earnings on amounts in the Visitors Fund Trust Account, less the Administrative Fee. Net revenues does not include any amounts required to pay refunds of surcharge taxes, interest, or other charges required by state law, debt service on the Regional Children's Campus Bonds and Parity Obligations.

OCCUPANCY. The use or possession, or the right to use or possess for lodging or sleeping purposes any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

OPERATING EXPENSES. The total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator or operators of

the facilities in encouraging attendance, administering, and operating events held in the facilities and in obtaining events to be held there or as part of the neighborhood arts programs.

OPERATOR. The person who is proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent will also be considered an operator for the purposes of this subchapter and will have the same duties and liabilities as the principal. Compliance with the provisions of this subchapter by either the principal or the managing agent is compliance by both.

PCPA BONDS. Bonds or other obligations issued by the City to fund capital improvements to the PCPA in an amount not to exceed \$2,100,000, and any bonds issued to refund those bonds.

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this subchapter is the same charge made for rent when not a part of a package plan.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Finance Director of the county.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel will not be included in determining the 30-day period if the transient is not charged rent for that day by the op-

erator. Any such individual occupying space in a hotel will be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, is not considered transient.

VISITORS FACILITIES TRUST ACCOUNT (VFTA). The excise tax account created by MCC § 11.401(E) to receive and disburse Net Revenues as provided in the Visitor Facilities Intergovernmental Agreement.

(Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.010, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.401 TAX IMPOSED.

(A) For the privilege of occupancy in any hotel in the county, each transient shall pay a tax of 11.5% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county that is extinguished only by payment by the operator to the county. The transient will pay the tax to the operator of the hotel at the time the rent is paid. The operator will record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, the transient will pay a proportionate share of the tax to the operator with each installment. In all cases the rent paid or charged for occupancy will exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks. After deductions for administration costs and any refunds or credits authorized by this subchapter the proceeds of the tax will be allocated as provided for in subsections (A), (B), (C), (D) and (E) of this section.

(B) The base rate of the tax imposed by subsection (A) is equal to 5%. It will be allocated to the county general fund, and is available for general fund expenditures.

(C) A surcharge rate of the tax imposed by subsection (A) is equal to 1% and will be used exclusively for contracting with private organizations for the promotion, solicitation, procurement and service of county convention business and tourism.

(D) A surcharge rate of the tax imposed by subsection (A) is equal to 3% and will be allocated to the Excise Tax Fund.

(1) Before paying the tax imposed by subsection (D), as required by § 11.407, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Excise Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax.

(2) The county will pay from the proceeds of the tax that is allocated to the Excise Tax Fund:

(a) To Metro, for the operation of the Oregon Convention Center, \$3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the greater of the change in the CPI or the overall change in the proceeds of the tax. If the overall increase in the proceeds of the tax in any given year exceeds 7%, any additional funds beyond the 7% increase will be allocated as specified in subsection (e) of subsection (D). Metro may also utilize the proceeds to pay debt service on Bonds issued for the purpose of making capital improvements to the Oregon Convention Center.

(b) To the government entity responsible for the operation of the Portland Center for the Performing Arts, \$1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax.

(c) To the government entity responsible for operating the Portland Center for the Performing Arts for a program or programs for cultural tourism, to be administered through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional Arts and Culture Council, \$200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual

percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax;

(d) To the Regional Arts and Culture Council, any remaining balance up to \$200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:

1. \$100,000 for neighborhood arts;

2. \$100,000 to broaden participation in and visitors to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.

(e) To Metro for any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made will be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed by Metro, on an as-needed basis to be determined by Metro.

(3) Earnings on proceeds allocated to the Excise Tax Fund will be credited to the Excise Tax Fund.

(4) The amounts specified in subsection (2) above are subject to review by the Board every five years.

(5) The tax imposed by subsection (D) is separate and independent of the tax imposed by subsection (C). Nothing in this subsection (D) modifies the 1% tax provided for by subsection (C).

(E) A surcharge rate of the tax imposed by subsection (A) is equal to 2.5% and will be allocated to the VFTA that is separate from the Excise Tax Fund. This 2.5% surcharge will terminate if the 2.5% motor vehicle rental tax surcharge imposed by § 11.301(C) is terminated before issuance of the Bonds.

(1) Before paying the tax imposed by subsection (E) as required by § 11.407, the operator may deduct an amount equal to 5% of the portion of the tax allocated to VFTA. This 5% may be re-

tained by the operator as reimbursement for expenses for collecting the tax.

(2) The tax imposed by subsection (E) is separate and independent of the tax imposed by subsections (C) and (D). Nothing in this subsection modifies the taxes imposed by subsections (C) and (D).

(3) In addition to imposing a tax, this subsection (E) specifically authorizes the Board under Home Rule authority to enter into an intergovernmental agreement with the City, pledging the County to maintain the tax surcharge to pay the Bonds and other obligations of this subsection (E). Any pledge of tax revenues in such an intergovernmental agreement is binding under ORS 288.594 from April 1, 2000, and as long as the Bonds set out in subsection (E) are outstanding.

(4) Taxes imposed by subsection (E) will be allocated in the following order of priority:

(a) First, to the City in the amount required to pay debt service on the Convention Center Completion Bonds;

(b) Second, to the City in the amount required to pay debt service on the PCPA Bonds;

(c) Third, to the City in the amount, if any, required to pay the remaining debt service on Civic Stadium Bonds after application of Civic Stadium Revenues;

(d) Fourth, to Metro in the amount, if any, required to pay reasonable operating, capital repair and maintenance cost of the OCC in excess of revenues collected by the OCC and the tax received by Metro from subsection (D);

(e) Fifth, to Metro for Convention Center Marketing, \$250,000 in Year One, \$350,000 in the second year, increased for each fiscal year thereafter by the CPI.

(f) Sixth, to Tri-County Metropolitan Transportation District (Tri-Met), \$300,000 in the fiscal year 2000-01, increased each subsequent fis-

cal year by the CPI, for costs of extending the fare-less square to the Lloyd Center Max station;

(g) Seventh, to the Visitor Development Fund (VDF), \$250,000 in the fiscal year 2000-01, \$500,000 in fiscal year 2001-02, increased each subsequent fiscal year by the CPI, to attract visitors to the county and City that maximize hotel occupancy and vehicle rentals;

(h) Eighth, to Metro for the operator of the PCPA, \$250,000 in Year One, \$500,000 in the second year, increased each year thereafter by the CPI, for costs of PCPA operations;

(a) (i) Ninth, to Metro to pay OCC operating deficits in excess of \$8,840,000 that accumulate during the first six fiscal years (2000-01 through 2005-06) after the effective date of the tax imposed by subsection (E);

(j) Tenth, to a revenue stabilization subaccount sufficient to pay subsection (a) through (i) disbursements, and that may be used to redeem or defease Convention Center Completion Bonds and PCPA Bonds.

(k) Eleventh, any subsection (E) taxes remaining after the (a) through (i) payments including subaccounts may be spent according to budgets proposed by the Visitor Development Board. (Ord. 957, Amended, 01/25/2001; Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.050, 07/01/1998; Ord. 845, passed, 03/14/1996; Ord. 870, passed, 01/09/1996; Ord. 811, passed, 02/26/1995; Ord. 790, passed, 06/16/1994; Ord. 569, passed, 01/28/1988; Ord. 501, passed, 02/20/1986; Ord. 488, passed, 12/19/1985; Ord. 56, passed, 06/29/1972)

§ 11.403 COLLECTION OF TAX BY OPERATOR.

(A) Every operator renting rooms or space for lodging or sleeping purposes in this county, the occupancy of which is not exempted under the terms of this subchapter, must collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the county.

(B) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator will not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectable taxes.

(C) The tax administrator will enforce provisions of this subchapter and has the power to adopt rules consistent with this subchapter that aid enforcement.

(D) For rent collected on portions of a dollar, fractions of a penny of tax will not be remitted.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.075, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.404 OPERATOR'S DUTIES.

Each operator must collect the tax imposed by this subchapter at the same time the rent is collected from each transient. The amount of tax must be separately stated upon the operator's records and any receipt rendered by the operator. No operator of a hotel will advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except as provided by this subchapter.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.100, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.405 EXEMPTIONS.

No tax imposed by this subchapter will be collected from:

(A) Any occupant for more than 30 successive calendar days;

(B) Any person who pays for lodging on a monthly basis, irrespective of the number of days in any month;

(C) Any occupant whose rent is of a value less than \$2 per day;

(D) Any person who rents a private home, vacation cabin or similar facility from any owner who rents the facility incidentally to the owner's own use of it;

(E) Any federal government employee renting a room for official governmental business; or

(F) Any persons renting and occupying a space in a recreational vehicle park or campground.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.125, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.406 REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY.

(A) Every person engaging or about to engage in business as an operator of a hotel in the county must register with the tax administrator on a form provided by the administrator. Operators starting businesses must register within 15 calendar days after commencing business.

(B) The privilege of registration after the date of imposition of the transient lodgings tax will not relieve any person from the obligation of payment or collection of tax regardless of registration.

(C) Registration must set forth the name under which an operator transacts or intends to transact business, the location of place or places of business and such other information as the tax administrator may require to facilitate the collection of the tax. The operator must sign the registration.

(D) The tax administrator will, within ten days after registration, issue without charge a certificate of authority to each registrant to collect the tax from the occupant, with a duplicate for each additional place of business of each registrant.

(E) Certificates are not assignable or transferable and must be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer.

(F) Each certificate and duplicate will state the place of business to which it is applicable and must be prominently displayed to be seen and come to the

notice readily of all occupants and persons seeking occupancy.

(G) The certificate will, among other things, state the following:

- (1) The name of the operator;
- (2) The address of the hotel;
- (3) The date upon which the certificate was issued; and
- (4) A notice reading as follows:

This Transient Occupancy Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Ordinance of Multnomah County, Oregon, by the registration with the tax administrator to collect from transients the county lodgings tax. This certificate does not authorize any person to conduct any business or operate a hotel without strictly complying with all applicable laws, including those requiring any other county permit. This certificate is not a permit.

(Ord. 941, Amended, 02/17/2000; ‘90 Code, § 5.50.150, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.407 DUE DATE; RETURNS AND PAYMENTS.

(A) The transient must pay the tax imposed by this subchapter to the operator at the time that the rent is paid. All taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth day of the following month for the preceding three months, and are delinquent on the last day of the month in which they are due. The tax administrator has authority to classify or district the operators for determination of applicable tax periods, and will notify each operator of the due and delinquent dates for the operator's returns. The initial return under this subchapter may be for less than the three months preceding the due

date. Thereafter, returns must be made for the applicable quarterly period.

(B) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections must be filed with the tax administrator. The return must be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(C) Returns must show the amount of tax collected or otherwise due for the period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, the gross receipts of the operator for the period, and an explanation of any discrepancy between those amounts and the rents exempt, if any.

(D) The person required to file the return must deliver the return, together with the remittance of the amount of the tax due, to the tax administrator, either by personal delivery or by mail. If the return is mailed, the postmark will be considered the date of delivery for determining delinquencies.

(E) For good cause, the tax administrator may extend for up to one month the time for making any return or payment of tax. No further extension will be granted. Any operator to whom an extension is granted must pay interest at the rate of 1% per month on the amount of tax due without proration for a fraction of a month. If a return is not filed and the tax and interest due is not paid by the end of the extension granted, the interest will become part of the tax for computation of penalties described in § 11.420.

(F) If the tax administrator considers it necessary to insure payment or facilitate collection by the county of the amount of taxes in any individual case, the tax administrator may require returns and payment of the amount of taxes for other than quarterly periods.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; ‘90 Code, § 5.50.175, 07/01/1998; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.408 TAX DEFICIENCY DETERMINATION.

(A) The tax administrator may compute and determine the amount required to be paid upon the facts contained in the return, or other information. One or more deficiency determinations may be made of the amount due for one, or more than one period. The amount so determined is due and payable immediately upon service of notice, after which the amount determined is delinquent. Penalties on deficiencies will be applied under § 11.420.

(B) In making a determination, the tax administrator may offset overpayments for previous periods, against any underpayment for subsequent periods, or against penalties and interest on the underpayments. The interest on underpayments will be computed under § 11.420.

(C) The tax administrator will give to the operator or occupant a written notice. The notice may be served personally or by mail. If by mail, the notice will be addressed to the operator as it appears on the records of the tax administrator. In case of service by mail of any notice required by this subchapter, the service is complete at the time of deposit in the United States post office.

(D) Except in the case of fraud or intent to evade this subchapter or applicable rules, every deficiency determination will be made and notice 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 later.

(E) Any determination will become due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redetermination if the petition is filed before the determination becomes final.

Penalty, see § 11.499
(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.200, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.409 FRAUD; REFUSAL TO COLLECT; EVASION.

If any operator fails or refuses to collect the tax or to make within the time provided in this subchapter any report and remittance of the tax required by this subchapter, or makes a fraudulent return or otherwise willfully attempts to evade this subchapter, the tax administrator will obtain facts and information for an estimate of the tax due. The tax administrator will determine and assess against the operator the tax, interest and penalties provided by this subchapter. The tax administrator will give a notice as provided in § 11.408 of the amount assessed. The determination and notice will be made and mailed within three years after discovery by the tax administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file a return. Any determination becomes due and payable immediately upon receipt of notice and becomes final within ten days after the tax administrator has given notice. The operator may petition for redemption and refund if the petition is filed before the determination becomes final.

Penalty, see § 11.499
(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.225, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.410 OPERATOR DELAY.

If the tax administrator believes that the collection of any tax required to be collected and paid to the county will be jeopardized by delay, or if any determination will be jeopardized by delay, the tax administrator may determine the amount of tax required to be collected. The amount so determined will be immediately due and payable, and the operator must immediately pay the determination to the tax administrator after service of notice. The operator may petition, after payment has been made, for redemption and refund of the determination, if the petition is filed within ten days from the date of service of notice by the tax administrator.

Penalty, see § 11.499
(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.250, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.411 REDETERMINATIONS.

(A) Any person against whom a determination is made under §§ 11.408 through 11.410 or any person directly interested may petition for a redetermination within the time required in §§ 11.408 through 11.410. If a petition for redetermination is not filed within that time, the determination becomes final at the expiration of the allowable time.

(B) If a petition for redetermination is filed within the allowable period, the tax administrator will reconsider the determination, and, if the petition requests, grant an oral hearing and give ten days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(C) The tax administrator may decrease or increase the amount of the determination because of the hearing and if an increase is determined the increase will be payable immediately after the hearing.

(D) The order or decision of the tax administrator upon a petition for redetermination becomes final ten days after service upon the petitioner of notice, unless appeal of the order or decision is filed with the tax administrator within the ten days after service of notice.

(E) No petition for redetermination or appeal will be effective for any purpose unless the operator has first complied with the payment provisions of this subchapter.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.275, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 56, passed, 06/29/1972)

§ 11.412 SECURITY FOR COLLECTION OF TAX.

(A) The tax administrator may require any operator to deposit security in the form of cash, bond or other security as the tax administrator may determine. The amount of the security will be fixed by the tax administrator but will not be greater than twice the operator's estimated average quarterly li-

ability for the period, determined as the tax administrator considers proper, or \$5,000, whichever is less. The amount of the security may be increased or decreased by the tax administrator subject to the limitations of this subsection.

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

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.300, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.413 RECORDS MAINTAINED BY OPERATOR; ADMINISTRATOR EXAMINATION.

(A) Every operator must keep guest records of room sales and accounting books and records of the room sales. The operator must retain all records for a period of three years and six months after they are created.

(B) The tax administrator may examine during normal business hours the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax. The tax administrator may investigate the business of the operator in order to verify the accuracy of any return made, or if the operator makes no return, to ascertain and determine the amount required to be paid.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.325, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.414 CONFIDENTIAL CHARACTER OF INFORMATION; DISCLOSURE PROHIBITED.

It is unlawful for the tax administrator or any person having an administrative or clerical duty under this subchapter to make known in any manner the business affairs, operations or information obtained by an investigation of records and equipment

of any person required to obtain a transient occupancy registration certificate or pay a transient occupancy tax, or the amount or source of income, profits, losses, expenditures or to permit any statement, application, or other private record to be seen or examined by any person. Nothing in this section will prevent:

(A) The disclosure to, or the examination of records and equipment to another county official, employee or agent for collection of taxes for the purpose of administering or enforcing this subchapter, including the collection of taxes.

(B) The disclosure, after the filing of a written request to that effect, to the taxpayer, 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. The District Attorney must approve each disclosure and the tax administrator may refuse to make any disclosure when the public interest would suffer.

(C) The disclosure of the names and addresses of any persons to whom transient occupancy registration certificates have been issued.

(D) The disclosure of general statistics regarding taxes collected or business activity.

Penalty, see § 11.499
(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.350, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.415 APPEALS TO BOARD.

Any person aggrieved by any decision of the tax administrator may appeal to the Board by filing a notice of appeal with the tax administrator within ten days of the serving or the mailing of the notice of the decision given by the tax administrator. The tax administrator will transmit the notice of appeal, together with the file of the appealed matter to the Chair, who will fix a time and place for hearing the appeal from the decision. The Chair will give the appellant not less than ten days' prior written notice of the time and place of hearing on the appealed matter.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.475, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.416 REFUNDS BY COUNTY TO OPERATOR.

When any tax, penalty or interest is erroneously paid, it may be refunded. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment. The claim must be made on forms provided by the tax administrator. If the tax administrator approves the claim, the excess amount collected or paid may be refunded or may be credited on any amounts then due from the operator and the balance may be refunded to the operator.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.500, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.417 REFUNDS BY COUNTY TO TRANSIENT.

When the tax required by this subchapter is collected by the operator and deposited with the tax administrator and is later determined erroneously paid, it may be refunded by the tax administrator to the transient. A verified claim in writing, stating the specific reason for the claim must be filed with the tax administrator within three years from the date of payment.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.525, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.418 REFUNDS BY OPERATOR TO TENANT.

When the tax required by this subchapter is collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding 30 days without interruption, the operator must refund to the tenant the tax collected. . The operator must account for the collection and refund to the tax administrator. If the operator remits the tax before refund or credit to the tenant, the operator is entitled to a corresponding refund under § 11.416.

(Ord. 941, Amended, 02/17/2000; ' 90 Code, § 5.50.550, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.419 CREDIT AGAINST CITY TAX.

(A) Any person subject to the payment or collection of the 11.401(B) 5% base tax and the 11.401(C) 1% surcharge is entitled to a credit against the payment of the tax in the amount due any city within the county for a transient lodgings tax for the same occupancy.

(B) No person subject to the surcharge taxes imposed by 11.401(D) and 11.401(E) is entitled to a credit against the payment of those taxes. The 3% surcharge imposed by 11.401(D) and the 2.5% surcharge imposed by 11.401(E) are due and payable in accordance with this subchapter regardless of the amount due any city within the county for a transient lodging tax for the same occupancy made taxable under this subchapter.

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.575, 07/01/1998; Ord. 56, passed, 06/29/1972)

§ 11.420 DELINQUENCY AND INTEREST.

(A) Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this subchapter prior to delinquency must pay a penalty of 10% of the amount of the tax due in addition to the amount of the tax.

(B) Any operator who has not been granted an extension of time for remittance of tax due and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent must pay a second delinquency penalty of 15% of the amount of the tax due plus the amount of the tax and the 10% penalty first imposed.

(C) If the tax administrator determines that the nonpayment of any remittance due under this subchapter is due to fraud or intent to evade, a penalty of 25% of the amount of the tax will be added to the penalties stated in divisions (A) and (B) of this section.

(D) In addition to the penalties imposed, any operator who fails to remit any tax imposed by this subchapter must pay interest at the rate of 0.5% 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 the remittance first became delinquent until paid.

(E) Every penalty imposed and interest under this section is merged with and becomes part of the tax required to be paid.

(F) Any operator who fails to remit the tax levied within the time required by this subchapter must pay the penalties. However, the operator may petition the tax administrator for waiver and refund of the penalty or any portion thereof and the tax administrator may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

Penalty, see § 11.499

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.900, 07/01/1998; Ord. 790, passed, 06/16/1994; Ord. 593, passed, 09/29/1988; Ord. 56, passed, 06/29/1972)

§ 11.499 PENALTY.

Any operator or other person who fails to register as required by this subchapter, or who fails to furnish any return, supplemental return or other data required by this subchapter or by the tax administrator, or, with intent to defeat or evade the determination or any amount due under this subchapter, makes, renders, signs or verifies any false or fraudulent report, commits an offense that is a violation of this subchapter punishable by fine in an amount to be fixed by the court, not exceeding \$500.

(Ord. 941, Amended, 02/17/2000; '90 Code, § 5.50.990, 07/01/1998; Ord. 56, passed, 06/29/1972)

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 98-84

A RESOLUTION ESTABLISHING FEES AND CHARGES FOR CHAPTER 11, REVENUE AND TAXATION, OF THE MULTNOMAH COUNTY CODE

The Board of County Commissioners Finds:

Chapter 11, Revenue and Taxation, of the Multnomah County Code provides that the Board shall establish certain fees and charges by resolution.

THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS RESOLVES:

1. The fees and charges for Chapter 11, Revenue and Taxation, of the Multnomah County Code are set as follows:

Section 11.002. FEES FOR PUBLICATIONS AND RECORDS.

The fees for copies of publications and records shall be the actual cost of reproducing the records.

Section 11.003. FEES FOR TAPES AND DOCUMENTS PROVIDED BY THE CLERK OF THE BOARD' S OFFICE.

The fees for duplications of records of the Board shall be the actual cost of reproduction.

Section 11.306: LICENSE REQUIRED (motor vehicle rental license fee).

The motor vehicle rental license fee is \$50.

2. This resolution takes effect on July 1, 1998.

ADOPTED this 25th day of June, 1998.

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

_____/s/_____
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

_____/s/_____
Sandra N. Duffy
Deputy County Attorney