



County of El Dorado

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Memo To: The Honorable Board of Supervisors

Subject: Transient Occupancy Tax Funding

Background

Visitors are drawn to El Dorado County by its natural beauty and the Region's unique and historical attractions. The economic impact of tourism is vital to the local economy. Balancing the costs and benefits of tourism is essential to the preservation of our communities and our quality of life. Transient Occupancy Tax (TOT) is an important part of that balance.

The collection of TOT is authorized under State Revenue and Taxation Code Section 7280 as an additional source of non-property tax revenue to local government. This tax is levied for the privilege of occupying a room or rooms or other living space in a hotel, motel, inn, tourist home or house, including vacation home rentals or bed and breakfasts, or other lodging for a period of 30 days or less.

Under Chapter 3.28 of the County Code of Ordinances, the County imposes and collects a 10% tax on the rent charged by the operator for occupancy of hotels, motels, inns, or other lodging, except a camping site or a space at a privately-owned or State Park campground or recreational vehicle park. This tax rate was established in 2004 when County voters approved Measure H, which increased the TOT rate from 8% to 10%. Measure H specifically excluded the collection of TOT from a camping site or a space at a privately-owned campground or recreational vehicle park. Section 7282 of the State Revenue and Taxation Code specifically prohibits the levying of a tax for the privilege of occupying a campsite in a unit of the State Park system.

Funding

Board of Supervisors' Budget Policy B-16, item 2, reads:

Maximize the Board's Discretion: Except where the Board has previously made a decision to earmark revenues for a particular purpose, wherever legally possible, revenues are to be treated as discretionary resources, rather than as dedicated to a particular program or service, to provide the Board as much flexibility as possible in allocating resources to local priorities, based on the strategic plan.

A recent FlashVote poll conducted between December 5 and 7, 2017 indicated that maintaining a high level of County services was the second-most important factor to residents, just behind having a rural lifestyle. The survey ended with 765 participants.

As your Board has previously discussed, for the County to maintain a rural lifestyle while providing a high level of County services, revenues must increase. Discussion has taken place regarding options to increase revenues including increasing sales tax, service fees, motor vehicle fees, and TOT – this analysis is limited to the option of increasing TOT revenue.

Coinciding with the recovery from the last recession, TOT revenue has steadily increased since Fiscal Year 2010-11 (See Attached Exhibit 1).

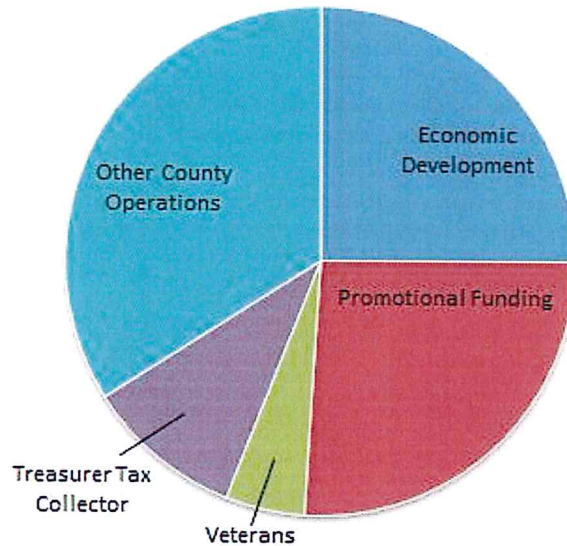
TOT is collected from approximately 20 hotels/motels/inns, 154 cabins within privately-owned campgrounds, and approximately 850 vacation home rentals and bed and breakfasts in the unincorporated part of the County - with approximately 66% coming from the East Slope of the County (including the unincorporated area of South Lake Tahoe, Tehama, Meyers, Meeks Bay, Fallen Leaf Lake, Eco Lake, and North Upper Truckee) and 34% from the West Slope.

Due to system limitations, precise figures with regard to the number of rooms, the number and geographic location of establishments, and the geographic origin of the TOT, are not available. However, estimates place approximately 750 vacation home rentals and bed and breakfasts on the East Slope (all in Supervisorial District 5) and approximately 100 on the West Slope with approximately 3 in Supervisorial District 1; 23 in District 2; 20 in District 3; 36 in District 4; and 17 in District 5.

The tax code does not require any specific use of TOT funds; however, El Dorado County General Plan Policy 10.1.6.4 states that the majority of the revenue shall be “directed toward the promotion of tourism, entertainment, business, and leisure travel in El Dorado County.” For budget purposes, the “majority” of TOT has been construed to mean 51% of the current year General Fund TOT budget, although this figure has been adjusted upward by the Board in prior fiscal years. Over the past 10 years approximately half of the 51% has been allocated to Promotional Funding programs. Recipients of the promotional funding have been determined through various methods including grant evaluation processes and commitments through funding agreements. The allocation of TOT is not related to District boundaries or to where the TOT is generated.

The County also allocates 10% of the total current year TOT collected to the Treasurer-Tax Collector, and beginning in Fiscal Year 2013-14 allocates 5% of the prior year TOT revenue, after 10%, to Veteran Affairs (Legistar #13-0280). These allocations are not required by General Plan Policy, but are at the discretion of the Board and can be re-evaluated at any time. Figure 1 shows the approximate annual distribution of TOT funding.

Figure 1
Transient Occupancy Tax Funding Distribution



For the Departments that receive TOT funding, there is no obligation to return unspent TOT funds to the General Fund. Both Economic Development and Treasurer-Tax Collector are General Fund programs, and TOT will always offset the cost of operations in the Treasurer-Tax Collector. By default, any unspent money for Economic Development and the Treasurer-Tax Collector will remain in the General Fund unless the Board takes specific action in a given budget year to do something else with those unspent funds. In Fiscal Year 2017-18 the Board took action to set aside the unspent funding for Economic Development for incentive programs and infrastructure projects and Staff will make a similar recommendation following the close of the Fiscal Year. According to Versions 1 and 2 of Legistar #13-0280, any TOT funds allocated to the Veteran Affairs Commission that are not spent or obligated in the fiscal year in which they are appropriated shall be returned to the General Fund.

Analysis

In 2016, 23 TOT measures were on the ballot in California. Fourteen of the measures were approved, and nine were defeated. Only one of the measures had an expiration date of 10 years, while the others that passed will remain in effect unless a measure amending the tax were approved by voters in the future. Overall, the measures proposed an average of a 2.89% increase on taxes. The approved measures proposed an average increase of 2.57% while the defeated measures proposed an average increase of 3.39% (https://ballotpedia.org/Hotel_taxes_in_California#2016).

Currently, visitors staying within the County pay a tax equal to 10% of their overnight charge. This is similar to surrounding counties and cities, where the average collected is 10.9%. Within the County, the

City of South Lake Tahoe has a TOT rate of 12% and 14% in their redevelopment zone, and the City of Placerville has a rate of 10%.

An increase to the TOT rate would produce added revenue with less of an impact on residents than other alternatives because TOT charges are generally paid by visitors to the County. A 2% TOT rate increase from 10% to 12% would result in estimated net revenue of approximately \$734,190 annually, using the total amount of TOT collected for Fiscal Year 2016-17 (\$3,670,952) as the baseline.

An expansion of the collection of TOT to campgrounds including tent campsites and recreational vehicle campsites within privately-owned campgrounds and campgrounds within Federal lands would also produce added revenue with minimal impact on our residents. Of the surrounding counties and cities only the City of South Lake Tahoe charges TOT on campgrounds. Other areas in the State including Sonoma County, Nevada County, and Mono County do as well.

Staff research shows that there are approximately 2,827 campsites/recreational vehicle sites/cabins within campgrounds throughout the County: 1,340 campsites/recreational vehicle sites/cabins on privately-owned land; 1,054 campsites/recreational vehicle sites/cabins on Federally-owned land; 413 campsites on State-owned land; and 20 recreational vehicle sites on County-owned land at the Fairgrounds.

As noted above, the collection of TOT from a camping site or space at a privately-owned campground or recreational vehicle park, or a campsite in a unit of the State Park system, is specifically excluded from Chapter 3.28 of the County Code of Ordinances, and in the case of State Parks, is also precluded by Section 7282 of the State Revenue and Taxation Code. The collection of TOT on campsites within Federal lands is neither precluded in County Ordinance nor in State or Federal Law; however, the County does not currently collect TOT from these establishments. The County does collect TOT on the 154 cabins within privately-owned campgrounds, which is allowed pursuant to Chapter 3.28.

Because many of the privately-owned campsites are associated with other uses, e.g. white water rafting, which includes the cost of the campsite in their activity packages, the nightly charge for many of the campsites in the County is unknown. Further, many of the establishments are limited by seasonal constraints, e.g. river flow in the summer or snow in the winter, therefore, the number of occupied days is also unknown. Making a conservative estimate of 1,186 campsites and recreational vehicle sites on privately-owned land at \$20/night, using a 30% occupancy rate or 110 days/year (half of the current average hotel occupancy rate of 60%), it is estimated that applying TOT at the current rate of 10% to campsites and recreational vehicle sites in privately-owned campgrounds has the potential to provide \$260,920 in additional annual revenue, or \$313,104 at a TOT rate of 12%.

Making the same conservative estimate for the 1,053 campsites and recreational vehicle sites on Federally-owned lands at \$20/night, using a 30% occupancy rate or 110 days/year (half of the average hotel occupancy rate of 60%), it is estimated that applying TOT at the current rate of 10% to campsites and recreational vehicle sites in Federally-owned campgrounds has the potential to provide \$231,660 in additional annual revenue, or \$277,992 at a TOT rate of 12%.

Pursuant to existing policy and practice, any increased revenue would proportionately increase the various allocations shown in Figure 1: 51% to Economic Development including Promotional Funding

Agreements; 10% to the Treasurer-Tax Collector; and 5% to Veteran Affairs. Because the tax code does not require any specific use of TOT funds, the Board would have discretion as how to use any additional revenue beyond what is allocated by General Plan Policy 10.1.6.4. The Board could also consider revising Policy 10.1.6.4 to provide further discretion for the use of TOT funds.

Additional TOT revenue could be used to help fund projects that benefit the economic prosperity of the County as a whole. For example, infrastructure improvements such as broadband, transportation, pedestrian access, parks, historic or biological restoration or other infrastructure projects that would have a positive effect on the economic vitality of the County; as well as public safety, and road maintenance projects to offset the cost of wear-and-tear on the roads from visitors, as those coming to the county as tourists are traveling on county roads.

Alternatives and Recommendations

1. Increase the TOT rate from 10% to 12%:

Increasing TOT from 10% to 12% would provide an estimated \$734,190 of additional discretionary revenue to the County annually, based on TOT figures from Fiscal Year 2016-17.

The Board could consider a larger increase; however, as noted above, lessons learned in 2016 suggest it is less likely the voters would approve a measure to increase TOT more than 2.57%.

Increasing the TOT rate would require approval from the Board to place a measure on the ballot, and subsequent approval by a 2/3 majority vote of the electorate.

The estimated added administrative costs of this alternative would be moderate, as funding is already received by the County through this program.

The cost of placing a measure on the ballot for a Special Election is \$130,000. However, placing the measure on the upcoming November election would be significantly less as the cost associated with the measure will be “shared” by the other items placed on the ballot including County and State propositions and special district elections. The Elections Department cannot provide an accurate cost estimate until all ballot requests have been submitted; an estimate of the County’s share of placing a TOT increase measure on the ballot would be available at the close of the filing period in mid-August.

Recommendation:

Staff recommends the Board direct Staff to return to the Board with draft ballot measure language for conceptual approval by June, to request of the voters a 2% increase to the TOT rate for the upcoming November election.

2. Expand the collection of TOT to campgrounds, including a camping site or a space at a privately-owned campground or recreational vehicle park:

This action has been discussed in previous Board meetings. As recently as June 9, 2015, in the context of a Board presentation on Park priorities and funding, the Board directed staff to further research the possibility of applying TOT to campgrounds (Legistar #15-0095).

According to estimates, expanding the collection of TOT to campgrounds on privately-owned lands could provide an estimated \$260,920 in additional discretionary annual revenue at the 10% TOT rate or \$313,104 at a TOT rate of 12%.

Because the collection of TOT on campgrounds was specifically excluded in Measure H; approval of the expansion of collection of TOT to campgrounds would require support from the Board to place a measure on the ballot, and approval by a 2/3 majority vote of the electorate.

The estimated added administrative costs of this alternative would be moderate, as funding is already received by the County through this program; however, the cost of collecting and tracking TOT on a use previously uncollected may have additional, unknown fiscal impacts.

The cost of placing a measure on the ballot for a Special Election is \$130,000. However, placing the measure on the upcoming November election would be significantly less as the cost associated with the measure will be “shared” by the other items placed on the ballot including County and State propositions and special district elections. The Elections Department cannot provide an accurate cost estimate until all ballot requests have been submitted; an estimate of the County’s share of placing a TOT increase measure on the ballot would be available at the close of the filing period in mid-August.

Recommendation:

Staff recommends the Board direct Staff to return to the Board with draft ballot measure language for conceptual approval by June, to request of the voters an expansion of the collection of TOT to campgrounds on private lands for the upcoming November election.

Due to challenges of applying a percent to variable campground rates, an alternative recommendation the Board could explore is adding a flat fee for the occupancy of campgrounds, including a camping site or a space at a privately- or Federally-owned campground or recreational vehicle park, instead of levying TOT.

If the Board would like to pursue adding a flat fee for the occupancy of campgrounds, Staff recommends the Board direct Staff to move forward with additional analysis to verify the feasibility of adding a flat fee for the occupancy of campgrounds, including a camping site or a space at a privately- or Federally-owned campground or recreational vehicle park, and return to the Board for further direction.

3. Expand the collection of TOT to campgrounds, including a camping site, space, or recreational vehicle park on Federal lands.

Applying TOT at the current rate of 10% to campsites and recreational vehicle sites in Federally-owned campgrounds has the potential to provide \$231,660 in additional annual revenue, or \$277,992 at a TOT rate of 12%.

The collection of TOT on campsites within Federal lands is neither precluded in County Ordinance nor in State or Federal Law. Therefore, the Board has the discretion to levy the tax. While the Board has the discretion to levy the tax, there is the practical reality of relying on the Federal government to collect the tax on the County's behalf, which may be challenging to execute.

Recommendation:

Staff recommends the Board direct Staff to move forward with additional analysis to verify the feasibility of Alternative 3 to apply TOT to campsites/recreational vehicle sites/cabins within Federally-owned land, and to return to the Board for further direction.

4. Address the allocation of TOT to Veteran Affairs Commission through the annual Budget:

This alternative would discontinue the annual allocation of 5% of the prior year TOT revenue, after 10% to the Treasurer-Tax Collector, to the Veteran Affairs Commission. As with the Treasurer-Tax Collector, Veteran Affairs is a General Fund program; however, the TOT allocation in this instance is provided to the El Dorado Community Foundation which administers the funding on the Veteran Affairs Commission's behalf.

Because the TOT is allocated as a percent of the total, and the total TOT has increased over the five years Veterans Affairs has been receiving the funding, so has the allocated funding. This practice is inconsistent with Board Budget Policy B-16, item 2, which seeks to maximize the Board's discretion to provide the Board as much flexibility as possible in allocating resources to local priorities, based on the strategic plan. To be consistent with Board policy the Board should consider the allocation during each cycle of the Budget process.

The TOT allocation provided to the Veterans Affairs Commission is designated for special projects, such as Veteran Monument upkeep; Student Veteran Resource Center Grant; Veterans Care Program; Veterans Mini-Grant Program; and Veteran Career Training-Employment. If the TOT allocation were discontinued, the Board would need to allocate additional General Fund monies for these projects to continue.

Recommendation:

To be consistent with Board Budget Policy B-16 and preserve the Board's discretion, staff recommends the Board discontinue the practice of annually allocating 5% of the prior year TOT revenue, after 10% to the Treasurer-Tax Collector, to the Veteran Affairs Commission, and instead consider a fixed allocation during each cycle of the Budget process. For budget planning

purposes the amount could be set at an amount equal to the Fiscal Year 2016-17 allocation of \$159,553.

5. Revise or remove El Dorado County General Plan Policy 10.1.6.4:

Board of Supervisors' Budget Policy B-16, item 2, reads: Maximize the Board's Discretion: Except where the Board has previously made a decision to earmark revenues for a particular purpose, wherever legally possible, revenues are to be treated as discretionary resources, rather than as dedicated to a particular program or service, to provide the Board as much flexibility as possible in allocating resources to local priorities, based on the strategic plan.

Acknowledging that Economic Development is one of five elements of the County's strategic plan, and that El Dorado County General Plan Policy 10.1.6.4 states that the majority of the TOT revenue shall be "directed toward the promotion of tourism, entertainment, business, and leisure travel in El Dorado County;" the alternatives analysis for this report would be incomplete if the alternative of revising or removing Policy 10.1.6.4 to increase the Board's flexibility in allocating discretionary resources as much as possible, was not presented.

If Policy 10.1.6.4 were revised or removed, the Board would consider the TOT allocation toward the promotion of tourism, entertainment, business, and leisure travel in El Dorado County during each cycle of the Budget process.

The Board may wish to pursue this alternative in light of the above. Staff believes this action would be prudent, providing flexibility and discretion, while still providing funding for Economic Development activity through the Strategic Plan priorities.

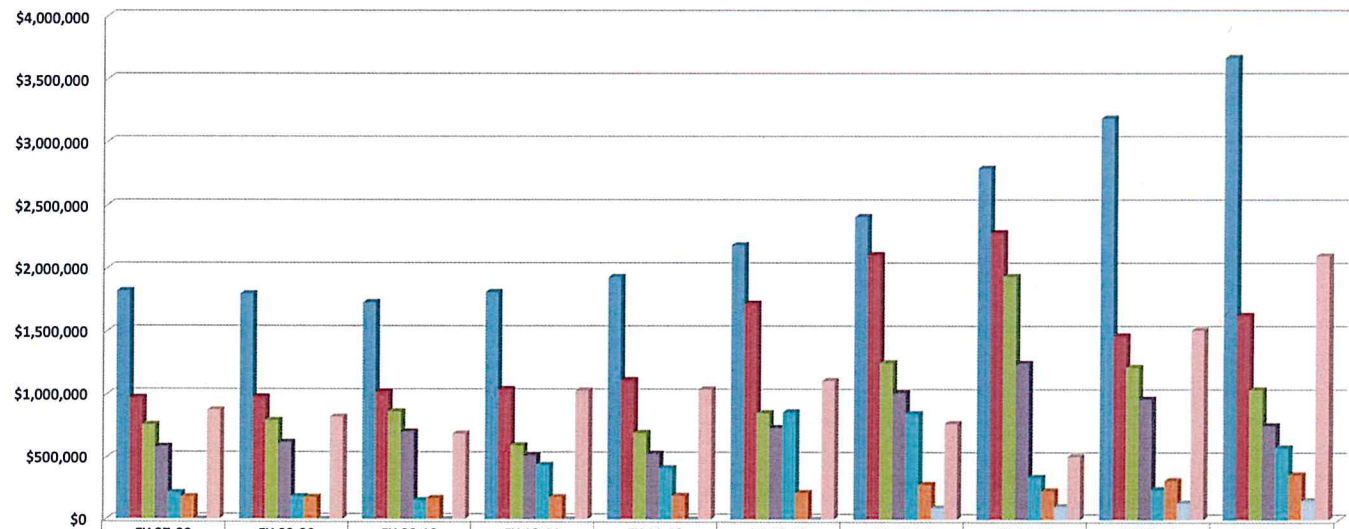
Respectfully Submitted,



DON ASHTON
CHIEF ADMINISTRATIVE OFFICER

EXHIBIT 1

10-Year TOT Funding History



	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Total TOT Revenue Received County-wide	\$1,822,029	\$1,799,620	\$1,731,032	\$1,812,585	\$1,932,673	\$2,186,216	\$2,410,979	\$2,792,967	\$3,191,054	\$3,670,952
Economic Development Program Budget	\$975,672	\$980,405	\$1,021,827	\$1,042,189	\$1,115,136	\$1,720,170	\$2,107,600	\$2,281,975	\$1,467,553	\$1,627,438
Economic Development Program Expenditures (Includes Promotional Funding)	\$760,561	\$795,873	\$866,336	\$598,081	\$696,921	\$856,309	\$1,255,062	\$1,936,823	\$1,219,597	\$1,042,962
Promotional Funding Actuals	\$588,475	\$621,146	\$704,697	\$518,962	\$531,784	\$738,188	\$1,015,323	\$1,251,298	\$966,318	\$757,473
Economic Development Program Revenues Less Expenditures (~\$ returned to GF)	\$215,111	\$184,532	\$155,491	\$444,108	\$418,215	\$863,861	\$852,538	\$345,152	\$247,956	\$584,476
Treasurer Tax Collector Actuals	\$182,186	\$179,838	\$173,103	\$181,259	\$193,267	\$218,622	\$285,777	\$234,618	\$319,105	\$367,066
Veterans Actuals	\$0	\$0	\$0	\$0	\$0	\$0	\$97,400	\$108,494	\$139,648	\$159,553
Net General Fund Actuals	\$879,282	\$823,909	\$691,593	\$1,033,245	\$1,042,485	\$1,111,285	\$772,740	\$513,032	\$1,512,704	\$2,101,371