

What Counties Need to Know to Administer Local Hotel Occupancy Taxes

Texas Hotel & Lodging Association

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Table of Contents

Introduction 4

Authorized Counties 4

Collecting the Tax..... 5

Exemptions from the Local Hotel Tax..... 6

 THLA’s Simplified Hotel Occupancy Tax Exemption Rules..... 10

How the County Receives the County Hotel Occupancy Tax 12

Reimbursement to a Hotel for Collection Expenses, and Use of Local Hotel Occupancy Tax Revenues by a County for Tax Collection Costs..... 12

Penalties for Failure to Report or Collect the Tax 13

Enforcement Authority of a County..... 14

Use of Local Hotel Occupancy Tax Revenues 15

Use of Tax Revenues: Generally Authorized Counties..... 15

 Criteria #1: First, every expenditure of local hotel occupancy tax revenue must DIRECTLY enhance and promote tourism AND the convention and hotel industry. 15

 Criteria #2: Every expenditure of the county hotel occupancy tax must clearly fit into one of seven statutorily provided categories for expenditure of local hotel occupancy tax revenues..... 17

 1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center. 17

 2) Paying the administrative costs for facilitating convention registration..... 18

 3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the county or its vicinity..... 18

 4) Expenditures that promote the arts. 19

 5) Funding historical restoration or preservation programs. 21

 6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under one million. 21

 7) Signage directing tourists to sights and attractions in the county frequently visited by hotel guests. 22

 Summary of the Seven Uses for the Local Hotel Occupancy Tax 22

Administering Hotel Occupancy Tax Revenue Expenditures..... 23

 Duty of funded entities to provide a list of activities. 23

 Delegating management of funded activities. 24

 Use of hotel occupancy tax revenues to cover administrative expenses. 24

Use of Tax Revenues: Counties with Special Hotel Tax Authority / Special Rules..... 26

 Atascosa County 26

 Bandera County 26

 Bosque County and Hill County 26

 Brazos County 26

 Cameron County and Hidalgo County 27

Cooke County..... 27

Counties Bordering the Gulf of Mexico: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, Victoria, and Willacy Counties:..... 28

Counties with No Municipality: Borden, Crockett, Glasscock, Jim Hogg, Kenedy, King, Loving, McMullen, Terrell, and Zapata Counties 28

El Paso County and Webb County 29

Guadalupe County 29

Harris County 29

Orange County..... 30

Maverick County..... 30

Midland County 30

Scurry County 31

Tyler County..... 31

Uvalde County 31

Val Verde County 31

Wilbarger County..... 32

Wilson County..... 32

Zapata County..... 32

County Development Districts 32

For More Information 32

Appendix A..... 33

 Counties Authorized to Impose County Hotel Occupancy Tax 34

Introduction

Since 1967, hotel occupancy taxes have been an important tool for promoting growth in communities' tourism and hotel industries. Hotel guests generate economic activity for local businesses and generate nearly \$3 billion in annual tax revenues annually for local governments, including but not limited to over \$680 million annually in local hotel occupancy tax revenue, increased sales taxes, alcoholic beverage taxes, and property taxes.¹ If a tourist is motivated to come to an area or to extend his or her stay at a hotel due to activities or facilities funded with hotel occupancy tax revenues, the local and state economies benefit. In turn, the hotel occupancy tax revenues generated from additional room night activity funds future programs and tourism-related facilities, creating an economic engine which provides prosperity for the area.

Unlike property tax and sales tax revenues, which cities and counties can use for most public purposes, local hotel occupancy tax revenues fall under a more structured statutory mandate. County hotel occupancy tax revenues are a dedicated tax revenue source and are primarily governed by Chapter 352 of the Texas Tax Code. This guide assists local governments, hotel occupancy tax revenue grant applicants, and lodging operators in all aspects of the county hotel tax process, including the rules on allowable expenditures of these funds by counties that fall within certain population and geographic brackets.

Authorized Counties

Not all counties in Texas are authorized to implement a hotel occupancy tax. A Texas county is eligible to adopt a local hotel occupancy tax if the county fits into one of the population brackets in Chapter 352 of the Texas Tax Code.² See Appendix A of this guide for a complete list of the Texas counties authorized by state law to impose a county hotel occupancy tax. Once a county has statutory authorization to adopt a county hotel occupancy tax, the county may adopt the tax by order or resolution of the commissioner's court.³ Unlike a local sales tax, the adoption of a general hotel occupancy tax does not require voter approval unless specifically required by the implementing legislation.⁴

The maximum tax rate that a county is authorized to adopt varies from county to county, depending on the language of the state statute that authorized the county to levy the tax.⁵ The county hotel tax rates range from one percent to seven percent.⁶ The ability of the county to impose a county hotel occupancy tax within the jurisdiction of an incorporated city within the county also depends on the applicable legislation.⁷ Appendix A of this guide contains information on maximum rates and applicability of the tax within an incorporated city. Additionally, a city or county may not propose a hotel occupancy tax rate that would result in a combined hotel occupancy tax rate imposed from all sources that would exceed 17 percent of the price paid for the room.⁸ If a city adopts the hotel occupancy tax within its extraterritorial jurisdiction (ETJ), the combined state, county, and municipal hotel occupancy tax rate may not exceed 15

¹ *Source:* Office of the Governor of Texas, Economic Development and Tourism; Texas Comptroller of Public Accounts Annual Cash Report.

² Tex. Tax Code Ann. § 352.002(a) (2023); Texas Hotel & Lodging Association (THLA) maintains a listing of most city and county hotel tax rates, accessible upon request to THLA members.

³ § 352.002(a).

⁴ *Id.*

⁵ § 352.003.

⁶ *Id.*

⁷ *Id.*

⁸ Tex. Loc. Gov't Code § 334.254(d). Note that the 17 percent cap does not apply to a city that approved a higher hotel tax through a venue ballot proposition prior to September 1, 2013, such as El Paso.

percent.⁹

In addition to local hotel occupancy taxes, all lodging properties operating in Texas are subject to a six percent state hotel occupancy tax.¹⁰ Governed under Chapter 156 of the Texas Tax Code, the state hotel occupancy tax is administered by the Texas Comptroller. Funds from the state six percent hotel occupancy tax flow directly to the Texas Comptroller's office and are largely used for the general governmental operations of the State. However, one-twelfth of the state hotel occupancy tax revenue is dedicated to funding tourism promotion through Texas's statewide marketing campaigns.¹¹

Collecting the Tax

Under the Texas Tax Code, the following lodging properties are considered "hotels" and are required to collect hotel occupancy taxes from their guests: "Any building or buildings in which members of the public obtain sleeping accommodations for consideration" for less than 30 days, including a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast facilities.¹² Additionally, a "short-term rental," defined as the rental of all or part of a residential property to a person who is not a permanent resident, is subject to hotel occupancy taxes.¹³ The Texas Administrative Code also includes "manufactured homes, skid mounted bunk houses, residency inns, condominiums, cabins, and cottages within the definition of a "hotel" if the facility is rented for periods of under 30 days.¹⁴ Hospitals, sanitariums, nursing homes, dormitories or other non-hotel housing facilities owned by institutions of higher education, and oilfield portable units do not collect the tax.¹⁵ Subject to various exemptions, state and local hotel occupancy taxes are imposed on any "person" who pays for the use of a room in a hotel, including corporations, organizations, and other legal entities. The hotel room must cost \$2 or more per day for the local hotel occupancy tax to apply, and \$15 or more per day for the state hotel occupancy tax to apply.¹⁶

Meeting rooms versus sleeping rooms:

The rental of sleeping rooms in hotels are subject to both state and local hotel occupancy taxes. However, there is a difference in how state and local hotel occupancy taxes apply to the rental of hotel meeting rooms. While the rental of sleeping rooms in hotels are subject to both state and local hotel occupancy taxes, meeting room rentals are not subject to local hotel occupancy taxes.¹⁷ The rental of a meeting room or meeting space in a hotel is subject to the state six percent hotel occupancy tax, provided the room or space is physically located in a structure that also contains sleeping rooms.¹⁸ For meeting rooms and banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms, neither state nor local hotel occupancy taxes apply to the rental of those meeting rooms or banquet halls, provided rental costs or charges are separately stated from any lodging costs or other charges on the guest's invoice or receipt.¹⁹

⁹ § 351.0025(b).

¹⁰ Tex. Tax Code § 156.051.

¹¹ Tex. Tax Code § 156.251(d).

¹² Tex. Tax Code § 156.001(a); 34 Tex. Admin. Code Ann. § 3.161(a)(3) (2023).

¹³ Tex. Tax Code § 156.001(c).

¹⁴ Tex. Tax Code § 156.001; 34 Tex. Admin. Code Ann. § 3.161(a)(3) (2023).

¹⁵ Tex. Tax Code § 156.001.

¹⁶ Tex. Tax Code § 156.051(a); § 352.002(a).

¹⁷ *Id.*

¹⁸ Tex. Tax Code § 156.051(a); Tex. Comptroller Opinion Letter No. 200103106L, Mar. 9, 2001.

¹⁹ *Id.*

It must be noted that sales tax may apply to the costs associated with the rental of meeting rooms or banquet halls located in a structure that is physically separated from a structure that contains sleeping rooms if the lodging facility provides food or beverage service that is subject to sales tax.²⁰ Such sales tax would apply to the meeting room or banquet hall rental costs or charges regardless of whether the food or beverage charges are separately stated on the guest's invoice or receipt.²¹

Food and beverage and other hotel charges:

Certain hotel guest charges assessed are subject to hotel occupancy taxes, while other added charges are subject to state and local sales tax. Common hotel charges usually subject to sales taxes (but generally not subject to hotel occupancy taxes) are hotel banquet service fees, food and beverage fees, movie rentals, dry cleaning/laundry services, internet connection, parking, and portage or bellhop fees.

Hotel charges related to the occupancy of a sleeping room or readying a sleeping room for occupancy are usually subject to hotel occupancy taxes only. Common hotel charges subject to hotel occupancy taxes are rollaway bed charges, pet charges, smoking fees, room damage fees, room safe charges, and late or early checkout fees.²² It is important to note that if a hotel offers services as part of a package rate included with lodging, and the price of a specific good or service is not separately stated on a guest's invoice, bill, or folio, the entire package is subject to hotel occupancy taxes.²³

Additionally, a special rule applies to whether hotel occupancy taxes are imposed on a hotel room rental cancellation fee. A 1989 Texas Comptroller's hearing concluded that hotel occupancy taxes are not due on charges to guests who 1) cancel more than 30 days before the scheduled stay begins, or 2) when the total cancellation charge to the guest is less than the reserved room rate.²⁴ This rule applies both to individual reservations and also to group contracts.²⁵

Application of local hotel occupancy tax rate increases on pre-existing contracts:

If a county increases its hotel occupancy tax rate, the increased tax rate generally does not apply to a hotel room under a contract that was executed before the date the increased rate takes effect. The increased hotel occupancy tax rate does not apply in such cases if the prior contract specified the former local hotel tax rate as a term of the agreement.²⁶ This prior contract exemption also does not apply if the contract's terms state that the contract is subject to "applicable taxes" or to change or modification from a tax rate increase.²⁷ A fully prepaid room night is likely to be considered a prior contract.

Exemptions from the Local Hotel Tax

Texas law provides certain hotel occupancy tax exemptions based on the length of a guest's stay or the

²⁰ 34 Tex. Admin. Code Ann. § 3.161(a)(3) (2023); Tex. Comptroller Opinion Letter No. 201010556L, Oct, 2010.

²¹ *Id.*

²² If a hotel contracts for housekeeping or janitorial services with a third party, charges paid by the hotel to the third party for those services are usually subject to sales tax. If the lodging property imposes a cleaning charge to a guest for the lodging rental, that cleaning charge to the guest is subject to hotel occupancy taxes, and this is in addition to the sales tax owed by the lodging property for the services rendered by the third-party cleaning service. THLA maintains a list of most hotel charges and which tax, if any is assessed on a particular charge. This list is available upon request to THLA members.

²³ Tex. Comptroller Opinion Letter No. 200102031L, Feb. 7, 2001.

²⁴ Texas Comptroller's Hearing Decision No. 24,654 (1989).

²⁵ *Id.*

²⁶ Tex. Tax Code § 351.007.

²⁷ *Id.*

guest's affiliation with an exempt organization. Texas law is more generous with exemptions from the state six percent hotel occupancy tax than it is for local hotel tax exemptions. The Texas Tax Code generally allows for an exemption from state hotel occupancy tax for the following entities: educational, charitable, and religious entities. However, these entities are *not exempt* from local hotel occupancy taxes.²⁸

There are primarily four categories of exemptions that are permitted for municipal and county hotel occupancy taxes:

- 1) **Permanent Resident/Over 30-Day Stay:** Persons or businesses who have agreed in advance to use a hotel room for more than 30 consecutive days (i.e. the "permanent resident" hotel tax exemption).²⁹
- 2) **Federal Employees:** Federal employees traveling on official business;
- 3) **Diplomats:** Foreign diplomats with a tax-exempt card issued by the U.S. Department of State;
- 4) **High Ranking State Officials:** A very limited number of state officials with a hotel occupancy tax exemption card issued by the Texas Comptroller (e.g. heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges); and

Hotel guests claiming items two through four of the above exemptions are required to show appropriate identification and to fill out a "Hotel Occupancy Tax Exemption Certificate" promulgated by the Texas Comptroller.³⁰ The tax exemption certificate form is available on the Texas Comptroller's website at <https://www.comptroller.texas.gov/taxes/hotel/forms/>. It is advisable for hotels to have such forms available to guests to fill in if the guest seeks to claim such exemptions.

"Permanent residents" (guests who stay for more than 30 days):

Special attention should be paid to the "permanent resident" hotel occupancy tax exemption. This permanent resident exemption applies to both state and local hotel occupancy taxes, and ensures that hotel guests staying over 30 days are taxed the same as residents staying at extended-stay properties, apartments, corporate rental facilities, rental houses, etc.³¹ The Texas Tax Code states that any "person" who has the right to use or possess a lodging room for at least 30 consecutive days is exempt from state and local hotel occupancy taxes, provided there is no interruption in payment or right to occupancy of the room during this period.³² In Texas, a "person" also includes a corporation or business. Therefore, one should look to whether the same person, corporate entity, business, or other entity paid for the room for that entire period.

If, in advance or upon check-in, the guest provides written notice to a hotel of intent to occupy a guest room for 30 days or longer, no hotel occupancy tax is due for any part of a guest's stay. A signed registration card or confirmed reservation indicating the guest's intent to occupy a room for 30 days or longer is sufficient written notice.³³ Furthermore, the guest is not actually required to physically occupy the room, but the guest must maintain the right to occupy the room for the length of the exemption period.³⁴

²⁸ Tex. Tax Code § 156.102.

²⁹ § 156.104.

³⁰ *Id.*

³¹ § 156.101.

³² Tex. Tax Code § 156.101; 34 Tex. Admin. Code § 3.161(a)(4).

³³ Tex. Comptroller Opinion Letter No. 200601452L, Jan. 27, 2006.

³⁴ 34 Tex. Admin. Code § 3.161(b)(2)(C).

If no written notice is provided upon check-in that can be documented by a written agreement (guest reservation, confirmation, registration, or folio or separate agreement), the first 30 days of the guest's stay are **not** hotel occupancy tax-exempt.³⁵ However, the guest's stay becomes automatically hotel occupancy tax exempt on the 31st day, regardless of whether there was prior notice of the guest's intent to stay for 30 days or more, as long as there has been no interruption in payment for the room or right to occupy the room.³⁶

THLA generally recommends hoteliers collect hotel occupancy taxes from the guest for the first 30 days of the guest's stay. On the 31st day of the guest's stay, provided there is no interruption of payment for the room and there was prior written notice or a reservation indicating the guest's intent to stay 30 days or longer, the hotel should refund the collected hotel occupancy taxes for the first thirty days. This protects the hotel from incurring hotel occupancy tax liability should the guest check out before staying at least 30 days. The hotel could choose to not collect the hotel occupancy tax during the stay if the guest paid in advance for the entire 30 days and there was no allowance for a refund if the guest were to check out early.

State Employees: Most rank-and-file state employees do not have a special hotel occupancy tax exemption card issued by the Texas Comptroller that prevents them from having to pay the state and local hotel occupancy tax even when they are on official business. Such state employees must pay the state and local hotel occupancy tax when paying their bill and, their state agency may later apply for a refund from the state and local government tax offices.³⁷ The state agency the employee works for is responsible for requesting this refund from the state and local government.

City and County Employees/Officials: City and county officials and employees are not exempt from the state or the local hotel occupancy tax, even if the officials or employees are traveling on official business.³⁸ Additionally, counties have no legal authority to authorize additional exemptions from the hotel occupancy tax that are not recognized in the Tax Code.³⁹ The Attorney General ruled in JM-865 (1988) that counties cannot grant an exception to the hotel occupancy tax for religious, charitable, or educational organizations without new constitutional or statutory authority to do so.

Letters of tax exemption: The Texas Comptroller maintains an online database of entities that have been granted a "Letter of Tax Exemption" from the state hotel occupancy tax. Most commonly, these organizations fall into the religious or charitable categories of exemption from the state hotel occupancy tax. Note that educational and charitable entities are not exempt from local hotel occupancy taxes. The Texas Comptroller generally requires a letter of tax exemption to accompany a completed hotel occupancy tax exemption certificate form before an exemption may be granted on this basis. The Comptroller's approved letter of exemption database is accessible online at: <https://www.comptroller.texas.gov/taxes/exempt/search.php>. It is important to note that many entities may be exempt from the state sales tax, but are not exempt from the state or local hotel occupancy tax.

For religious entities with a national affiliation, oftentimes the national organization's letter of tax

³⁵ § 3.161(b)(2)(A).

³⁶ *Id.*

³⁷ §3.163(b).

³⁸ See generally Tex. Tax Code § 351.005; Tex. Comptroller Opinion Letter No. 200202815L, Feb. 22, 2002.

³⁹ Tex. Att'y Gen. JM-865 (1988).

exemption will cover individual congregations.⁴⁰ For example, a search of “Baptist Convention” on the online database reveals that the “NATIONAL BAPTIST CONVENTION OF AMERICA INCORPORATED” holds a letter of tax exemption that will also be valid for subordinate entities. An individual Baptist congregation affiliated with the National Baptist Convention can use the national organization’s letter of tax exemption to accompany the signed exemption certificate.

To simplify the hotel occupancy tax exemption issue, THLA publishes a chart that hotels and county governments can utilize to determine when a hotel occupancy tax exemption is permitted under state law and what documentation is required.

⁴⁰ Tex. Comptroller Opinion Letter No. 200109470L, Sep. 13, 2001.

THLA’s Simplified Hotel Occupancy Tax Exemption Rules

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Agricultural Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
City & County Employees	Not exempt	Not exempt	Local government employees are not exempt from hotel occupancy taxes, even when traveling on official business.
Charitable Organizations	Depends (see comments to the right)	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate. Charitable entities must be able to show that they devote all or substantially all of their activities to the alleviation of poverty, disease, pain, and suffering by providing food, clothing, drugs, treatment shelter, or psychological counseling directly to indigent or similarly deserving members of society, with entity funds derived from sources other than fees or charges for its services. Other 501 (c) (3) and 501 (c) (6) entities are not exempt.
Texas Educational Organizations (see comments on the right regarding differences between Texas and out-of-state educational organizations)	Yes	Not exempt	Guest must fill out tax exemption certificate. State law limits the state hotel occupancy tax exemption for higher education entities to only Texas institutions of higher education. Out-of-state higher education entities are not exempt from the state or local hotel occupancy tax. However, out-of-state educational entities that are not institutions of higher education (high schools, middle schools, elementary schools, etc.) are exempt from state hotel occupancy taxes just like their Texas counterparts.
Electric & Telephone Cooperatives	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Federal Credit Unions	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID. Texas Comptroller opinion letters indicate that employees traveling on official business as employees of a federal credit union are treated as federal government employees.
Federal Employees (includes FEMA and Red Cross reimbursed rooms)	Yes	Yes	Guest must fill out tax exemption certificate, and Present a valid ID.
Foreign Diplomats	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present tax exempt card issued by U.S. Department of State.

TYPE OF BUSINESS REQUESTING EXEMPTION	EXEMPT FROM STATE H.O.T.	EXEMPT FROM LOCAL H.O.T.	COMMENTS
Health Facilities Development Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Housing Authorities & Finance Corporations	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Pan American Games Olympic Games Local Organizing Committees	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Permanent Residents (30 days or more)	Yes	Yes	Guest must notify hotel of their intent to stay 30 or more days at the beginning of that period. Guests who notify hotel in advance or at check-in of intent to stay longer than 30 days and have no interruption in their stay qualify for a state and local hotel occupancy tax exemption for their first 30 days of their hotel stay, and any consecutive days thereafter. If the stay is interrupted and ends in under 30 days, all applicable hotel occupancy taxes must be paid. Guests who do not notify the hotel of the anticipated over 30-day duration of their stay are only exempt for hotel occupancy taxes beginning on the 31 st consecutive day of their stay.
Public Facility Corporation	Yes	Yes	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Regional Education Service Centers	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
Religious Organizations	Yes	Not exempt	Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.
High Ranking State Officials with Hotel Tax Exemption Photo ID Card	Yes	Yes	Guest must fill out tax exemption certificate, and Guest must present state photo ID card that specifically notes that employee is exempt from hotel occupancy tax. These are heads of state agencies; members of state boards and commissions; state legislators and their staff; and state judges.
General State Employees <u>without</u> Special Hotel Occupancy Tax Exemption Photo ID Card	Not exempt	Not exempt	Guest must pay the state and local hotel occupancy tax, and then their state agency may apply for hotel occupancy tax reimbursement from the local and state governments through a separate process.

How the County Receives the County Hotel Occupancy Tax

The hotel occupancy tax is collected from the hotel guest when the guest makes payment for the hotel room. The tax is then remitted by the hotel to the county on a regular basis, to be established by the county (usually monthly or quarterly). Although the Texas Comptroller's Office is not directly involved in the collection of the local hotel occupancy taxes, counties sometimes use the same reporting timeframes and forms used by the Texas Comptroller for collection of the local hotel occupancy tax. This allows hotels to follow a consistent payment pattern. The Texas Comptroller's timeframes are as follows: Hotels owing less than \$500 in state hotel occupancy tax for each calendar month, or \$1,500 for a calendar quarter, report and remit tax on the 20th day of the month following the end of the fiscal year quarter. All other hotels file monthly state hotel occupancy tax returns by the 20th day of the following month. If the 20th day falls on a weekend or bank holiday, the return is due on the next business day.⁴¹

Regardless of the reporting period used, counties often require hotels to include a copy of the hotel's state hotel occupancy tax report for the Texas Comptroller as part of their report. The state report data may be used to check the local report provided by the hotel to the county. It is important to remember that the amount of taxable revenue will vary to a certain degree between the state and local hotel occupancy taxes based on the amount of state hotel tax exempt business a property handles (which is not exempt from the local hotel occupancy tax) and the amount of meeting room rentals (subject solely to state hotel occupancy tax).

Reimbursement to a Hotel for Collection Expenses, and Use of Local Hotel Occupancy Tax Revenues by a County for Tax Collection Costs

By order, a county may allow hotel operators to retain up to one percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.⁴² The county may require hotels to forfeit the reimbursement because of a failure to pay the tax or failure to file a report as required by the county.⁴³

Counties may spend each year not more than the lesser of two percent or \$75,000 of the county's hotel occupancy tax revenues for the actual costs during that year for the creation, maintenance, operation, and administration of an electronic tax administration system.⁴⁴ If a county uses hotel occupancy tax revenue for such a system, the county must allow the hotels to retain one percent of the hotel occupancy tax revenue collected to offset the costs of collecting the tax.⁴⁵ A county may contract with a third party for this electronic administration system.⁴⁶ The state statutes do not contain any other provisions allowing county governments to retain any of the collected tax to cover costs of imposing or collecting the tax.

A county may not use hotel occupancy tax revenue to pay for audits of area hotels.⁴⁷ However, counties that undertake responsibility for operating a facility or event funded by the local hotel occupancy tax may be reimbursed from the hotel occupancy tax revenues for actual expenses incurred in operating the facility or

⁴¹ Tex. Comptroller, <http://www.window.state.tx.us/taxinfo/hotel/faqhotel.html>.

⁴² Tex. Tax Code § 352.005.

⁴³ § 352.005(c).

⁴⁴ § 352.1016.

⁴⁵ § 352.005(b)

⁴⁶ *Id.*

⁴⁷ *Id.*

event, if the hotel occupancy tax funded expenditure directly promotes tourism and local hotel and convention activity.⁴⁸

Penalties for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties a county may assess against hotel operators who fail to file the hotel tax collections report, file late or without full payment, or produce false tax returns.⁴⁹

Interest and delinquency penalties:

A county sets its hotel tax remittance schedule by county resolution. Penalties for failure to remit hotel occupancy taxes to a county when due follow a specific structure.⁵⁰ If the hotel does not pay the tax when it is due, the hotel must pay a penalty to the county of five percent of the tax due.⁵¹ If the hotel is delinquent in paying the required tax for more than 30 days, the hotel must pay an additional penalty of five percent of the tax due.⁵² If the hotel is delinquent in paying the required tax for more than 60 days, the delinquent taxes and the accrued penalties draw interest at a rate of ten percent per annum.⁵³

Audits and concurrent state tax delinquencies:

Generally, a county may not use hotel occupancy tax revenues to pay for audit costs associated with administrating the collection of hotel occupancy taxes.⁵⁴

The concurrent state hotel occupancy tax delinquency provision in the Tax Code allows counties to receive a commission from the Texas Comptroller if the Comptroller successfully utilizes county audit information to collect delinquent state hotel occupancy taxes from the hotel.⁵⁵ First, a county submits any documentation or other information to the Comptroller that shows a hotel's failure to collect or pay state hotel occupancy tax. The Comptroller then reviews the submitted information and determines whether to proceed with collection and enforcement.⁵⁶ If the information submitted by the county results in the collection of delinquent state hotel occupancy taxes, the Comptroller will remit 20 percent of the revenues collected by the Comptroller to the county, to defray the county's audit costs.⁵⁷

Alternatively, a county may request hotel occupancy tax audit information from the Texas Comptroller. The county must keep such information confidential and use the information only for enforcement or administration of the county's hotel occupancy tax. To obtain such information, a county must make a written request to the Comptroller's Office, Open Records Section, at P.O. Box 13528, Austin, Texas 78711. The request must be on county letterhead and signed by a high-level county official, preferably the judge. A county may also fax such a written request to the Comptroller's Office, Open Records Section, at (512) 475-1610.

⁴⁸ § 351.101(e).

⁴⁹ § 350.004.

⁵⁰ § 352.004(a) and (b).

⁵¹ § 352.004(b).

⁵² *Id.*

⁵³ § 352.004(c).

⁵⁴ *See generally* § 352.1031(b).

⁵⁵ § 352.008.

⁵⁶ *Id.*

⁵⁷ *Id.*

Enforcement Authority of a County

Counties are also given the authority to take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- bring a civil suit against the hotel operator for noncompliance;⁵⁸
- ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid;⁵⁹ and
- any other remedies provided under Texas law.⁶⁰

The most noteworthy of these remedies is the ability of the county to request that the district court close the hotel if the hotel occupancy taxes are not turned over. Informing the hotel operator of the possibility of such a closure generally results in compliance by the hotel.

A county may also require in its hotel occupancy tax order that persons buying a hotel retain out of the purchase price an amount sufficient to cover any delinquent hotel occupancy taxes that are due to the county.⁶¹ If the buyer does not remit such amount or show proof that the hotel is current in remitting its hotel occupancy taxes, the buyer becomes liable for any delinquent hotel occupancy taxes due on the purchased hotel.⁶²

The purchaser of a hotel may request that the county provide a receipt showing that no hotel occupancy tax is due (“Letter of No Tax Due”) on the property to be purchased.⁶³ The county is required to issue the statement not later than the 60th day after the request.⁶⁴ If the county fails to issue the statement by the deadline, the purchaser is released from the obligation to withhold the amount due from the hotel purchase price.⁶⁵

The general statute of limitations for a lawsuit related to the collection and delinquency of hotel occupancy taxes is four years from the date the hotel tax is due.⁶⁶ However, this statute of limitations period does not apply if a hotel fails to file a report for the tax, or if the hotel files a false or fraudulent report with the intent to evade paying the tax.⁶⁷

⁵⁸§ 352.004(d).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ § 352.0041.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ § 352.004(d-1) and (d-2).

⁶⁷ *Id.*

Use of Local Hotel Occupancy Tax Revenues

For many counties, the rules for using the county hotel occupancy tax are the same as the general rules applicable to cities for use of this tax.⁶⁸ This is based on Tax Code § 352.1031, which states that unless otherwise provided, the county hotel occupancy tax can only be used for the purposes authorized under Section 351.101 (the general rules applicable to city expenditures of the tax).⁶⁹ Appendix A of this article contains a chart listing all counties in Texas authorized to implement a local hotel occupancy tax. The chart also provides the county's maximum hotel tax allowable under Texas law, as well as a citation for any limitations or special rules for the county.

This guide addresses both the general rules applicable to many counties, as well as special rules for specific counties. If the county does not fall into any of the special categories but does fit into one of the population brackets contained in Chapter 352 of the Tax Code, state law provides that such authorized counties must follow the same general rules that apply to city expenditures of the hotel occupancy tax. These rules are contained in Section 351.101 of the Tax Code. Section 351.101 provides a two-part test that every expenditure of local hotel occupancy tax by these counties must meet to be valid.

Use of Tax Revenues: Generally Authorized Counties

For many counties, the rules for using the county hotel occupancy tax are the same as the general rules applicable to cities for use of this tax.⁷⁰ This is based on Tax Code Section 352.1031, which states that unless otherwise provided, the county hotel occupancy tax can only be used for the purposes authorized under Section 351.101 (the general rules applicable to city expenditures of the tax). If the county does not fall into any of the special categories but does fit into one of the population brackets contained in Chapter 352 of the Tax Code, state law provides that such authorized counties must follow the same general rules that apply to city expenditures of the hotel occupancy tax.⁷¹ Section 351.101 provides a two-part test that every expenditure of local hotel occupancy tax by these counties must meet to be valid.⁷²

Criteria #1: First, every expenditure of local hotel occupancy tax revenue must DIRECTLY enhance and promote tourism AND the convention and hotel industry.

Under the Tax Code, every event, program, or facility funded with hotel occupancy tax revenues must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry.⁷³ "Tourism" is defined under Texas law as guiding or managing individuals who are traveling to a different, city, county, state, or country for business, pleasure, recreation, education, or culture.⁷⁴ A "direct" promotion of the convention and hotel industry has been consistently interpreted by the Texas

⁶⁸ § 352.1031.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² § 351.101.

⁷³ *Id.*

⁷⁴ § 351.001(6).

Attorney General as a program, event, or facility likely to cause increased hotel or convention activity.⁷⁵ This activity may result from hotel or convention guests that are already in town and choose to attend the hotel occupancy tax revenue funded facility or arts or historical event, or it may result from individuals who come from another city or county to stay in an area lodging property at least in part to attend the hotel occupancy tax revenue funded event or facility.

If the hotel occupancy tax revenue funded event or facility is not reasonably likely to directly enhance tourism and the hotel and convention industry, local hotel occupancy tax revenues cannot legally fund it.⁷⁶ However, it is important to note that events and facilities that do not qualify for hotel occupancy tax revenue funding are often still legally eligible for county funding from most of the other funding sources available to the county, such as general property tax revenues, certain sales tax revenues, franchise fee revenues, etc.

There is no statutory formula for determining the level of impact an event must have to satisfy the requirement to directly promote tourism and hotel and convention activity.⁷⁷ However, communities with successful tourism promotion programs often condition the amount of hotel occupancy tax revenue that is awarded to the proportionate impact of the event or facility on tourism and hotel activity incident to the funding request. Entities applying for hotel occupancy tax revenue funding should indicate how they will market the event to attract tourists and hotel guests. If an entity does not adequately market its events to tourists and hotel guests, it is difficult to produce an event or facility that will effectively promote tourism and hotel activity.

A county or delegated entity should also consider whether a funded event will be held in a venue that will likely attract tourists and hotel guests. For example, if an event is held in a local school or community center, it may be less likely to attract tourists than if it is held at a local performing arts venue, museum, or civic center. Each community will need to assess whether the facility hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is a community picnic, local parade, educational class, or other similar type of event, it is often not likely to attract tourists and hotel guests and would thus not be eligible for hotel occupancy tax revenue funding.

Finally, it is a good practice to utilize a hotel tax revenue funding application form. THLA has a sample hotel occupancy tax revenue funding application form and a “post event” form that are already in use by many county governments throughout Texas. For a copy of these two forms, simply call THLA at (512) 474-2996, or email THLA at news@texaslodging.com. These forms pose questions of funding applicants such as “Do you have a hotel room block for your events?” and “What do you expect to be the number of room nights sold for this event?” Additionally, the application asks if the entity has negotiated a special hotel price for attendees of their funded event. If the entity does not find the need to reserve a hotel space or room block or negotiate a special hotel rate, it is not likely that they anticipate their event/s will have a meaningful impact on hotel activity.

County staff and hotel occupancy tax revenue funded entities can also visit with area hoteliers who, in many cases, can provide feedback on whether any of their hotel guests expressed an interest in attending such events or facilities in the past. Hotel front desk and management staff usually know what local events and facilities were of interest to their guests by notes entered in their reservation systems, requests for directions, information, and transportation to such venues by hotel patrons.

⁷⁵ See Op. Tex. Att’y Gen. Nos. GA-0124 (2003), JM-690 (1987).

⁷⁶ *Id.*

⁷⁷ See generally Tex. Tax Code §§ 351.101(a), (b).

After a hotel occupancy tax revenue grant recipient's event or program is offered for several years, the recipient should have a reasonable idea as to whether their event or program's attendance includes a particular number of tourists and hotel guests. For example, some entities track whether guests are staying at local hotels via their event guest log or surveys. Other entities measure potential out-of-town attendance from their ticket sales records or other survey information.

It is important to note that Texas law also provides that the hotel occupancy tax revenue may not be used for general revenue purposes or general governmental operations of a county.⁷⁸ It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity.⁷⁹ For example, consider a request to use the hotel occupancy tax revenue to pay for construction of additional lighting, restrooms, roads, sidewalks, or landscaping in a downtown area. These are expenditures for which the county would traditionally use its general revenues. Therefore, such an expenditure would violate the prohibition against using the hotel occupancy tax revenue for "general governmental operations of a county."⁸⁰ It is difficult to argue that such improvements to a non-tourism facility would "directly" promote tourism and hotel activity. At best, one could argue the improvements would "indirectly" enhance tourism and hotel activity—which is not sufficient under the clear language of the Tax Code to qualify for funding from the hotel occupancy tax.

Criteria #2: Every expenditure of the county hotel occupancy tax must clearly fit into one of seven statutorily provided categories for expenditure of local hotel occupancy tax revenues.⁸¹

For most counties, the seven categories for expenditure of the county hotel occupancy tax revenue are as follows:

1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.

This category allows expenditures of the hotel occupancy tax revenue for the creation, improvement, or upkeep of a convention center or a visitor information center, or both.⁸²

Convention centers.

The term "convention center" is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the county or another governmental entity or that are managed in whole or in part by the county.⁸³ It also includes parking areas within 1,500 feet of the convention center facility, and certain hotels that are owned by the county or another governmental entity, or that are managed in whole or in part by the county.⁸⁴ It does not include facilities that are not of the same general characteristics as the structures listed above.

⁷⁸ Tex. Tax Code § 351.101(b); *see also* Op. Tex. Att'y Gen. Nos. JM-184 (1984), JM-965(1988).

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Tex. Tax Code § 351.101(a).

⁸² § 351.101(a)(1).

⁸³ § 351.001(2).

⁸⁴ *Id.*

Texas law specifies that for a facility to be funded as a convention center, it must be a facility primarily used to host conventions and meetings attended by tourists or individuals who spend the night at a hotel or attend a meeting at a hotel.⁸⁵ “Primarily used” in this context means that more than 50 percent of the bookings for the facility are to host conventions or meetings that directly promote tourism and the hotel and convention industry.⁸⁶

Simply naming a facility a convention center or visitor information center does not automatically qualify the facility as a “convention center.” The authority to use the hotel occupancy tax for facilities is limited and any such facility must meet the above noted “primary usage” test. For example, general civic buildings such as the county courthouse, local senior citizen centers, or activity centers would not qualify as convention centers that could be funded by hotel occupancy tax revenue.

Visitor information centers.

A visitor information center is defined as a “building or a portion of a building that is primarily used to distribute or disseminate information to tourists.”⁸⁷ A visitor information center may be operated by the county itself or by another entity such as a chamber of commerce or other entity.⁸⁸ If the visitor information center and staff serve multiple purposes (e.g., chamber staff or a chamber facility that is both the chamber office and a visitor center), the cost of the visitor center and its operational costs including staffing can only be covered by local hotel occupancy tax revenue to the extent the facility and the staffing are used for activities related to directly funding hotel activity.⁸⁹ County hotel occupancy tax revenues may not be spent under the visitor information center category to construct, operate, staff, or maintain a part of a building or facility that is not primarily used as a visitor information center.⁹⁰

2) Paying the administrative costs for facilitating convention registration.

This provision allows local hotel occupancy tax revenue expenditures for administrative costs that are actually incurred by assisting in the registration of convention delegates or attendees.⁹¹ This is generally an expenditure of bigger communities that hold large conventions and includes covering the personnel costs and/or the cost of materials used for the registration of convention delegates or attendees.

3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the county or its vicinity.

This provision allows hotel occupancy tax revenue expenditures for solicitations or promotional programs/advertising directly related to attracting tourists and convention delegates to the county or its vicinity.⁹² Such expenditures are traditionally in the form of internet, social media, newspaper, mail, television, or radio ads; or solicitations to attract tourists to an event or a meeting at a facility. The advertising or promotion must directly promote the hotel and convention industry.⁹³ For example, the

⁸⁵ *Id.*

⁸⁶ *Id.*; see generally Tex. Tax Code §§ 351.101(a), (b).

⁸⁷ § 351.001(8).

⁸⁸ *Id.*

⁸⁹ 35d1.101(f-1); 351.101(e).

⁹⁰ § 351.101(f-1).

⁹¹ Tex. Tax Code § 351.101(a)(2).

⁹² § 351.101(a)(3).

⁹³ § 351.101(b).

Texas Attorney General ruled that the local hotel occupancy tax may not be used for advertising or other economic development initiatives or improvements to attract new businesses or permanent residents to a county.⁹⁴

4) Expenditures that promote the arts.

This section authorizes the expenditure of local hotel occupancy tax revenue for a variety of art-related programs that also promote tourism and local hotel and convention activity.⁹⁵ Specifically, it allows funding the encouragement, promotion, improvement, and application of the arts including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution and exhibition of these major art forms.⁹⁶ However, it is not enough that a facility or event promotes the arts; Texas law requires that the arts related expenditure also directly promote tourism and the hotel and convention industry.⁹⁷

Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Texas Attorney General reaffirmed this standard when it held in Opinion GA-0124: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue only to promote tourism and the convention and hotel industry, and only for the specific uses listed in the statute.”

THLA and Texans for the Arts (TFA) have created a memorandum of understanding to assist local governments in implementing hotel occupancy tax laws as they relate to the arts. To comply with the hotel occupancy tax statute, THLA and TFA agree that to be eligible for arts funding from HOT revenues, arts related recipients must satisfy the following requirements:

1. The recipient must present, perform, promote, encourage, or otherwise make possible, artistic events, cultural performances, programs, exhibitions, or lectures involving any of the major art forms listed in Texas Tax Code Section 351.101 (a) (4), or “other arts related to the presentation, performance, execution and exhibition of these major art forms.”
2. The hotel occupancy tax funded programs, facilities, and/or events must be advertised and open to the general public.
3. The hotel occupancy tax for funded programs, facilities, and/or events must be expended in a manner that directly enhances and promotes tourism and the convention and hotel industry.

With regard to the requirement within Number 3 above regarding directly enhancing and promoting tourism and the convention and hotel industry, THLA and TFA agree that the Tax Code does not require a recipient to demonstrate a proportionate level of direct impact on tourism and the convention and hotel industry to be eligible for local hotel occupancy tax revenue funding. However, the demonstration of some level of direct impact on tourism and the convention and hotel industry is required.

The following factors may be beneficial to consider, but this list is neither exhaustive nor mandatory:

⁹⁴ Op. Tex. Att’y Gen. No. JM-690 (1987).

⁹⁵ Tex. Tax Code § 351.101(a)(4).

⁹⁶ *Id.*

⁹⁷ § 351.101(b).

- a. Offering Arts Events as Part of a Tourism/Hotel Event: The hotel occupancy tax revenue funded arts entity can show a direct impact on the hotel and convention industry by providing entertainment or arts related services for conventions, conferences and meetings that are attended in whole or part by convention and/or hotel guests.
- b. Use of Hotel Facilities/Services by the Arts: The hotel occupancy tax revenue funded arts entity can show a direct impact on the hotel and convention industry by using local lodging facilities and/or lodging services for galas or other events that are held by the hotel occupancy tax revenue funded arts entity. A direct impact on hotels can also be shown through the use of hotel dining or hotel entertainment facilities by arts patrons either before and/or after hotel occupancy tax revenue funded arts events.
- c. Creating or Causing Room Night Activity at Area Hotels: The hotel occupancy tax revenue funded arts entity can show a direct impact on the hotel and convention industry through the reservation of hotel rooms for visiting artists and/or showing other hotel activity that is directly attributable to the hotel occupancy tax revenue funded arts event or facility.
- d. Surveying of Attendees at Arts Related Events: The hotel occupancy tax revenue funded arts entity can show a direct impact on the hotel and convention industry through audience or attendee questionnaires, polling, hotel block booking codes, or other methods that show hotel night or other hotel or convention activity that is directly attributable to the hotel occupancy tax revenue funded arts event or facility. Surveying of Attendees at Arts Related Events: The hotel occupancy tax revenue funded arts entity can show a direct impact on the hotel and convention industry through audience or attendee questionnaires, polling, hotel block booking codes, or other methods that show hotel night or other hotel or convention activity that is directly attributable to the hotel occupancy tax revenue funded arts event or facility.

There are many success stories of counties that have partnered with the arts entities to turn one day arts events into multi-day events that can substantially increase tourism and hotel activity. Such partnerships and long-term planning can help both foster the arts and grow hotel occupancy tax revenue proceeds that can be made available to the arts and other eligible uses.

Attorney General opinion on arts facilities

In 2017, the Texas Attorney General issued opinion number KP-0131 regarding whether a city can expend hotel occupancy tax revenues for an arts-related facility under the arts category of the Tax Code. This opinion was requested by the City of Lakeway regarding funding the construction of a new performing arts center (referred to as "PAC"), to be owned by the City. The City of Lakeway requested an Attorney General opinion on whether the City may legally use hotel occupancy tax revenue to pay for 1) a feasibility study for the PAC, and 2) the construction, operation, and maintenance of the PAC.

In Opinion KP-0131, the Attorney General took a strict position on using local hotel occupancy tax revenue for an arts facility. The opinion states that the phrase, "promotion of the arts," in the state statute does not expressly authorize the use of municipal hotel occupancy tax revenues for the construction of arts facilities. The opinion concluded, "construction costs of theater facilities, considered alone, are not within the scope" of the arts category of hotel occupancy tax revenue expenditures.⁹⁸ Based on this reasoning, it seems that the Texas Attorney General holds that funding of a physical structure with local hotel occupancy tax revenue must be specifically authorized under some other statutory category of hotel occupancy tax revenue expenditures, aside from the general "promotion of the arts" category.

⁹⁸ Op. Tex. Att'y Gen. No. KP-0131 (2017).

In 2021, the Texas Attorney General reaffirmed KP-0131 by issuing KP-0350, regarding whether a city can expend hotel occupancy tax revenues for the completion of public space and a clubhouse at an apartment complex.⁹⁹ Opinion KP-0350 held such an expenditure is not allowable under the Tax Code, and reaffirmed KP-0131, stating, “Opinion KP-0131 concluded that construction costs, considered alone, are not within the scope of subsection 351.101(a)(4), and that any construction costs associated with any particular facility are proper costs for the hotel occupancy tax revenue only if they are incurred under subsection 351.101(a)(1). Tex. Att’y Gen. Op. No. KP-0131 (2017) at 2. An expenditure made under subsection 351.101(a)(4) must conform to these limitations to satisfy the second aspect.” Additionally, KP-0350 concluded that because the expenditure would benefit apartment residents, rather than hotel guests, the expenditure does not qualify under the Tax Code.

5) Funding historical restoration or preservation programs.

A county may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects or activities, or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums that are likely to attract tourists and hotel guests.¹⁰⁰ Texas law does not limit such funding to structures that are owned by a public or nonprofit entity, or to whether the project is listed on a historic registry, but the county may choose to impose such limitations by county order or policy.

It is not enough that a project or activity event merely be historical in nature; Texas law requires that the historical related expenditure also directly promote tourism and the hotel and convention industry.¹⁰¹ Section 351.101(a) of the Tax Code specifically states that “the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry.” The Attorney General in Opinion GA-0124 (2003) reaffirmed this standard when it held: “Under section 351.101 of the Tax Code, a municipality may expend its municipal hotel occupancy tax revenue ‘only to promote tourism and the convention and hotel industry’ and only for the specific uses listed in the statute.”

6) Funding certain expenses, including promotional expenses, directly related to a sporting event within counties with a population of under one million.

This section authorizes a county with a population of under one million to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses, directly related to a sporting event.¹⁰² To qualify under this authorization, the sporting event must be one that would “substantially increase economic activity at hotels and motels within the city or its vicinity.”¹⁰³ The statutory authorization also requires that a majority of the participants in the sporting event also be tourists (visitors from another county) to the area.¹⁰⁴

This category is intended to allow communities to fund the event costs for sporting tournaments that

⁹⁹ Op. Tex. Att’y Gen. No. KP-0150 (2021).

¹⁰⁰ § 351.101(a)(5).

¹⁰¹ § 351.101(b).

¹⁰² § 351.101(a)(6).

¹⁰³ *Id.*

¹⁰⁴ *Id.*

result in substantial hotel activity. For example, if a county had to pay an application fee to seek a particular sporting event or tournament, it could use hotel occupancy tax revenue for such an expenditure if the sporting event would substantially increase economic activity at hotels and the county was within a county of under one million population. The added requirement that a majority of the participants must be “tourists” was included to prevent the use of local hotel occupancy tax revenue for sporting related facilities or events that are purely local (e.g.; local recreation centers, local little league and parks events, intramural sports, etc.).

7) Signage directing tourists to sights and attractions in the county frequently visited by hotel guests.

In 2009, the Texas Legislature added a statutory category that allows counties to use county hotel occupancy tax revenue to pay for signage directing tourists to sights and attractions frequently visited by hotel guests.¹⁰⁵

Summary of the Seven Uses for the Local Hotel Occupancy Tax

In summary, local hotel occupancy tax revenues only may be spent to establish or enhance a convention center or visitor information center, cover the administrative expenses for registering convention delegates, pay for tourism-related advertising and promotions, fund arts programs or facilities that will directly promote tourism and hotel and convention activity, fund historic restoration or preservation projects that will enhance tourism and hotel and convention activity, in certain cities noted above fund certain costs for holding sporting events that substantially increase local hotel activity, and pay for signage directing tourists to sights and attractions frequently visited by hotel guests.¹⁰⁶ If the county cannot fit an expenditure within one of these categories, hotel occupancy tax revenues cannot be used for that purpose, unless a special state statute was passed to allow such additional uses. This article includes a summary beginning on page 24 of special provisions and limitations placed on counties that fall into certain population brackets or special geographic areas of the state.

Regarding the use of local hotel occupancy tax revenues, there is no time limit for a county to expend all its hotel occupancy tax funds. Additionally, state law requires that interest earned on hotel tax must be spent in the same way as other hotel tax revenues.¹⁰⁷ State law does not address revenues that are earned from events funded by the local hotel occupancy tax.

¹⁰⁵ § 351.101(a)(9).

¹⁰⁶ §§ 351.101, 352.1015(e).

¹⁰⁷ §§ 351.001(9), (10).

Administering Hotel Occupancy Tax Revenue Expenditures

County reporting of information to the Texas Comptroller

Originally enacted in 2021 and amended in 2023, the Texas Legislature enacted a statute requiring all Texas counties that impose a local hotel occupancy tax to annually report to the State Comptroller the hotel occupancy tax rate that the county levies and certain information about the county's expenditures of local hotel tax. Specifically, the statute requires the county to report:

- 1) Its county hotel occupancy tax rate;
- 2) The annual amount of hotel occupancy tax revenue collected from the county's Chapter 352 hotel occupancy tax and, if applicable, the county's venue hotel occupancy tax under Chapter 334 of the Local Government Code;
- 3) The amount and percentage of the hotel occupancy tax revenue spent by category during the county's preceding fiscal year; and
- 4) The total amount of any hotel occupancy tax revenue collected in the preceding fiscal year that has not been spent and the amount of total unspent hotel occupancy tax revenues.¹⁰⁸

A county that imposes a hotel occupancy tax (HOT) must report this information to the Texas Comptroller via an online reporting form prescribed by the Comptroller. This form can be found at <https://comptroller.texas.gov/transparency/local/hotel-receipts/>. Legislation enacted in 2023 requires changes to the form prescribed by the Comptroller for reporting hotel occupancy tax; the updated version of this form is expected to be released no later than January 1, 2024. The 2024 report to the Comptroller must be submitted using this revised form.

Reporting Deadlines: Counties have a 60-day window to report the required information. The annual reporting period begins on January 1 and ends on March 1 of each calendar year.¹⁰⁹ Legislation enacted in 2023 moved the end of the reporting period back from the prior February date; this will be in effect for the 2024 reporting period.

Costs associated with reporting: To cover potential costs associated with complying with the reporting requirements, a county with a population of less than 10,000 may use up to \$1,000 of its county hotel occupancy tax revenue for administrative costs for reporting, and a county with a population of 10,000 or more may use up to \$2,500 of its county hotel occupancy tax revenue for administrative costs for reporting.¹¹⁰

Duty of funded entities to provide a list of activities.

All entities (including the county itself) that are directly or indirectly funded by the local hotel occupancy tax revenue are required to annually provide a list of their scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.¹¹¹ This list is to be

¹⁰⁸§ 352.009.

¹⁰⁹ § 352.009.

¹¹⁰ § 352.009.

¹¹¹ §§ 352.109; 352.1015(a) and (b).

provided annually to the commissioners (or their designee) prior to the expenditure of the hotel occupancy tax revenue funding by the funded entity.¹¹² An entity may add items to this list at any time, and each county decides the format for providing this information. This documentation requirement does not apply if the entity already provides written information to the county indicating which scheduled activities or events that it offers that directly enhance and promote tourism and the convention and hotel industry. For example, counties that require quarterly or annual reports on the use of hotel occupancy tax revenue by hotel occupancy tax revenue funded entities will satisfy this requirement if their report addresses the extent to which their events directly promote tourism and hotel activity.¹¹³

It is important to remember that if an entity does not have any such events or programs reasonably expected to directly promote tourism and the hotel and convention industry, it is not eligible for local hotel occupancy tax funding.¹¹⁴ If only a portion of an entity's programs fit this criteria, then only a proportionate amount of that entity's costs should be covered by the local hotel occupancy tax.¹¹⁵

Delegating management of funded activities.

The governing body of a county may delegate the management or supervision of programs funded with hotel occupancy tax revenue by written contract.¹¹⁶ The delegation may be made to a person, another governmental entity, or to a private organization.¹¹⁷ The delegation is often made to a local arts council, a chamber of commerce, or to the destination marketing organization. The county shall approve the entity's annual budget prior to delegating the management or supervision of hotel occupancy tax revenue funded programs.¹¹⁸ Furthermore, the county shall require the delegated entity to make periodic reports, at least quarterly, listing the hotel occupancy tax revenue expenditures made by the delegated entity.¹¹⁹ Additionally, the Code requires that the contracted entity maintain complete and accurate financial records for every expenditure of hotel occupancy tax revenue, and upon the request of the county or another person, make the records available for inspection and review.¹²⁰

An entity with delegated authority to manage hotel occupancy tax revenue funded programs undertakes a fiduciary duty with respect to the use of the tax revenue.¹²¹ Such entities are also required to maintain the county hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account or funds.¹²² The Tax Code does not contain similar prohibitions against commingling the funds for individual organizations, such as an arts or historical group that receives hotel tax occupancy revenue funding for their individual program, but do not themselves oversee hotel occupancy tax revenue funding to other entities.

Use of hotel occupancy tax revenues to cover administrative expenses.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ § 352.1015.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

Under Texas law, some county hotel occupancy tax revenue may be used to cover the portion of administrative costs that are directly attributable to work on activities that may be funded by the local hotel occupancy tax revenue.¹²³ For example, entities that manage activities funded by local hotel tax revenue may spend some of the tax for certain day-to-day operational expenses.¹²⁴ These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs.¹²⁵

However, these costs may be reimbursed only if the expenses are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax statutes.¹²⁶ The portion of the administrative costs that are covered should not exceed the portion of the cost that is attributable to the activity funded by the hotel occupancy tax revenue.¹²⁷ For example, administrators who spend 33 percent of their time overseeing hotel occupancy tax revenue funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Additionally, hotel occupancy tax revenues may be spent on travel that is directly related to the performance of the person's job in an efficient and professional manner.¹²⁸ This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.¹²⁹

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

Use of Tax Revenues: Counties with Special Hotel Tax Authority / Special Rules

Certain counties are authorized to use hotel tax revenues in a specific way under legislation unique to that county. The categories of special authorities are as follows:

Atascosa County

Atascosa County has a population of less than 60,000 in which an annual strawberry festival is held in a location that is not the county seat of the county and may impose a countywide hotel occupancy tax of up to two percent.¹³⁰ Atascosa County may only use the hotel occupancy tax revenue for the construction, enlarging, equipping, improvement, maintenance, repairing and operation of a civic center with an area used for rodeos, livestock shows, and agricultural exhibitions to substantially enhance hotel activity and encourage tourism.¹³¹

Bandera County

Bandera County has a population of 30,000 or less, has no more than one municipality with a population of less than 2,500, and borders counties located wholly within the Edwards Aquifer Authority.¹³² The maximum tax rate for Bandera County is seven percent, and the County is authorized to impose this tax within all of its municipalities.¹³³ The County may only expend its hotel occupancy tax revenue for general promotional and tourist advertising of the county and its vicinity and for convention solicitation as well as acquiring a site for and constructing, improving, enlarging, equipping, repairing, operating, and maintaining a visitor information center.¹³⁴

Bosque County and Hill County

Hill and Bosque counties each border Lake Whitney. The maximum rate for these counties is seven percent, but the hotel tax can only be assessed in unincorporated areas of the county.¹³⁵ Revenues must be used for advertising and promoting the unincorporated areas of the county.¹³⁶

Brazos County

Brazos County has a population of 150,000 or more and is bordered by the Brazos and Navasota Rivers. The maximum rate for Brazos County is generally two percent, unless a special contract is executed

¹³⁰ §§ 352.002(bb), 352.003(z).

¹³¹ § 352.112.

¹³² §§ 352.002(a)(5), 352.003(a), and 352.1032.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ §§ 352.002(a) and (d), and 352.1035.

¹³⁶ *Id.*

between the Brazos Valley Convention & Visitors Bureau and Texas A&M University.¹³⁷ If the Brazos Valley Convention & Visitors Bureau executes a preferred access agreement for Texas A&M University's facilities, the maximum rate is 2.75%, and all revenues derived from the rate of more than 2% must be used for the renovation of Kyle Field.¹³⁸

Cameron County and Hidalgo County

Cameron County and Hidalgo County border the United Mexican States and have a population of between 300,000 and 600,000.¹³⁹ The maximum tax rate for these counties is seven percent, and the tax rate does not apply in areas in which the city hotel occupancy tax is in effect.¹⁴⁰ Cameron and Hidalgo counties may only expend the county hotel occupancy tax revenue for one purpose: bond debt service, construction, maintenance, or operation of a special events facility with a seating capacity of at least 8,000.¹⁴¹

Cooke County

Cooke County has a population of less than 100,000 and borders Lake Ray Roberts.¹⁴² The maximum tax rate for Cooke County is two percent, and the tax applies throughout the county, regardless if a municipality within the County has a municipal hotel tax.¹⁴³ Cooke County can only use its hotel occupancy tax revenue for the following purposes:

- (1) The acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of public improvements such as civic centers, civic center buildings, auditoriums, exhibition halls, coliseums, and stadiums, including sports and other facilities that serve the purpose of attracting visitors and tourists to the county, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances, hotels owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by a municipality with a population of 1,500,000 or more, or a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by a municipality with a population of 1,500,000 or more;
- (2) The furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants; and
- (3) General promotion and tourist advertising of the county and its vicinity and conducting a solicitation program to attract conventions and visitors, any of which may be conducted by the county or through contracts with persons or organizations selected by the county.¹⁴⁴

¹³⁷ §§ 352.002(a) and (g), 352.003, and 352.1034.

¹³⁸ § 352.003(i-1) and (i-2).

¹³⁹ §§ 352.002(a)(11), 352.003(a), and 352.106.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² § 352.002(x).

¹⁴³ § 352.003(u).

¹⁴⁴ § 352.113 and § 352.101(a).

Counties Bordering the Gulf of Mexico: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jackson, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, Victoria, and Willacy Counties:

Rate: The maximum hotel occupancy tax rate for most of the Gulf coast counties is seven percent, except for Willacy County, which is nine percent.¹⁴⁵ However, Kenedy County's tax is capped at four percent, since Kenedy County is also a county without an incorporated municipality. Additionally, special statutory language restricts Chambers County to a three percent rate, and Jefferson County to a two percent rate.¹⁴⁶ With the exception of Chambers and Jefferson Counties, the counties in this category are not permitted to impose the tax in municipalities that already have a municipal hotel occupancy tax.¹⁴⁷

Use of the tax revenue: The applicable rules limit the county to only using its hotel occupancy tax to 1) clean and maintain public beaches which includes beach safety; 2) acquire, furnish, or maintain facilities to enhance public access to beaches; 3) provide and maintain public restrooms; 4) provide and maintain litter containers on or near beaches; 5) create, renovate, promote and maintain parks adjacent to waterways; 6) advertise and conduct solicitations and promotional programs to attract tourist and convention delegates; 7), acquire a site for and construct, improve, enlarge, equip, repair, operate, and maintain a visitor information center; and 8) encourage, promote, and improve historical preservation and restoration efforts.¹⁴⁸ These counties may also use 50 percent or less of the hotel occupancy tax revenue for the promotion of tourism.¹⁴⁹

Counties with No Municipality: Borden, Crockett, Glasscock, Jim Hogg, Kenedy, King, Loving, McMullen, Terrell, and Zapata Counties

There are ten counties in Texas with no incorporated municipality. Except for Zapata and Jim Hogg County, the maximum hotel occupancy tax rate for these counties is four percent.¹⁵⁰ Zapata County and Jim Hogg County are authorized to impose up to seven percent hotel tax.¹⁵¹ The applicable statutes limit the county to only expending its hotel occupancy tax revenue for the following six purposes: 1) funding the establishment, improvement or maintenance of a convention center or visitor information center; 2) paying the administrative costs for facilitating convention registration; 3) encouragement, promotion, improvement and application of the arts that will promote tourism and the convention and hotel industry; 4) general promotional and tourist advertising of the county and convention solicitation; 5) historic preservation and restoration; and 6) limited repairs and improvements of a county-owned airport as described below.¹⁵²

In 2017, the Texas Legislature authorized a county with no incorporated municipality to use hotel occupancy tax revenue for limited repairs and improvements of a county-owned airport.¹⁵³ The hotel occupancy tax revenue used for the airport may not exceed the amount of hotel revenue in the county

¹⁴⁵ §§ 352.002(a)(6), 352.002(d), 352.003(e), 352.003(f), 352.003(t) and 352.1033

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ §§ 352.002(a)(3), 352.003(c), and 352.103.

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ §§ 352.103(b), 352.103(c), and 352.103(d).

that is likely to be reasonably attributable to guests traveling through the airport period during the 15-year period beginning on the date the county first uses the hotel occupancy tax revenue on the airport.¹⁵⁴ Furthermore, the county may not use revenue for an airport project after the 10th anniversary of the date the county first uses hotel occupancy tax revenue for an airport project.¹⁵⁵

El Paso County and Webb County

El Paso and Webb County border the United Mexican States, have a population of 90,000 or more, and do not have three or more cities with a population of more than 17,500.¹⁵⁶ The maximum hotel occupancy tax rate for these counties is seven percent under the enabling statute, and the county may impose the tax county-wide.¹⁵⁷ However, it must be noted that under Local Government Code § 334.254(d), a municipality may not propose a hotel tax rate that would cause the combined hotel occupancy tax rate imposed from all sources to exceed 17 percent.¹⁵⁸

The statutes applicable to El Paso County and Webb County allow the expenditure of the county hotel occupancy tax revenue for the following five purposes: 1) funding the establishment, improvement or maintenance of a convention center or visitor information center; 2) paying the administrative costs for facilitating convention registration; 3) promotion and tourist advertising of the county and its vicinity and convention solicitation; 4) encouragement, promotion, improvement or application of historic preservation and restoration; and 5) encouragement, promotion, improvement and application of the arts that will promote tourism and the convention and hotel industry.¹⁵⁹ No more than 15 percent may be spent for the arts.¹⁶⁰

Guadalupe County

Guadalupe County, with a population of more than 110,000 through which the Guadalupe River flows, may impose a county hotel occupancy tax up to 2 percent within city limits and up to 7 percent in areas that are not subject to municipal hotel occupancy tax. However, Guadalupe County may not apply a county hotel occupancy tax to hotels within the New Braunfels city limits.¹⁶¹

Harris County

Harris County, with a population of more than 3.3 million, has unique taxing authority affecting both the tax rate and the use of hotel occupancy tax revenues.¹⁶²

Rate: Within Harris County, the maximum hotel occupancy tax rate depends on whether the hotel is

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ §§ 352.002(a)(2), 352.003(a), and 352.102.

¹⁵⁷ *Id.*

¹⁵⁸ Loc. Gov't Code § 334.254(d).

¹⁵⁹ §§ 352.002(a)(2), 352.003(a), and 352.102.

¹⁶⁰ § 352.102(b)

¹⁶¹ § 352.002(y).

¹⁶² §§ 352.002(a)(1), 352.003(b), 352.101, and 352.105.

within the limits of the City of Houston or another municipality with a local hotel tax.¹⁶³ The county hotel occupancy tax rate is two percent for areas of Harris County subject to a municipal hotel occupancy tax, and the rate is seven percent for all other areas of Harris County.¹⁶⁴

Use of the Harris County hotel occupancy tax revenue: The Tax Code limits Harris County to only expend its hotel occupancy tax revenue for three purposes: 1) public improvements such as civic centers, exhibition halls, coliseums and stadiums, that serve the purpose of attracting visitors and expenditures for parking areas or municipal hotels; 2) registration of convention delegates or registrants; and 3) general promotion and advertising of the county to promote tourism.¹⁶⁵ This advertising and promotion must be conducted under the authority of the City of Houston, and Harris County must devote not less than 15 percent of the county hotel occupancy tax at a rate of 1 percent for this purpose.¹⁶⁶

Orange County

Orange County may impose up to a two percent countywide hotel occupancy tax. In addition to the standard uses of county hotel occupancy tax revenue under § 351.101(a), in 2019, Orange County's eligible use of hotel tax revenue was expanded to include for the construction of a pavilion that is primarily used for events attended by tourists and hotel guests and that has a substantial impact on hotel activity. If the County uses hotel occupancy tax revenue for construction of a pavilion, the County may not reduce the amount of revenue that is used for advertising and promotion to an amount that is less than the average amount of revenue used by the County for advertising and promotion during the 36-month period that precedes its first use of revenue for a pavilion facility.¹⁶⁷

Maverick County

Maverick County is a county in which there is located an Indian reservation under the jurisdiction of the United States government.¹⁶⁸ Maverick County may impose up to a two percent countywide hotel occupancy tax. In addition to the standard uses of hotel occupancy tax revenue under § 351.101(a), in 2021, the Legislature authorized Maverick County to use hotel occupancy tax revenue for limited repairs and improvements of a county-owned airport. The hotel tax revenue used for the airport may not exceed the amount of hotel revenue in the county that is likely to be reasonably attributable to guests traveling through the airport period during the 15-year period beginning on the date the county first uses the hotel tax revenue on the airport. Furthermore, the county may not use revenue for an airport project after the 10th anniversary of the date the county first uses hotel tax revenue for an airport project.¹⁶⁹

Midland County

Midland County is a county in which "an airport is essential to the economy," and the airport is considered

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ § 352.111(b)

¹⁶⁸ § 352.002(4).

¹⁶⁹ § 352.114.

to be “essential to the economy only if the airport is a commercial-service international airport within Class C airspace,” and the airport is located in a county owned by a municipality each having a population of less than 150,000.¹⁷⁰ The maximum tax rate for Midland County is one percent, applicable throughout the county.¹⁷¹ The county must also produce an annual report describing the tourism, hotel and convention activity attributable to events held at facilities that received funding from the tax during the period covered by the report.¹⁷²

Scurry County

Scurry County has a population of more than 16,000 and is bordered by Lake J.B. Thomas. Scurry County may implement a county-wide two percent hotel occupancy tax only for the purpose of operating and maintaining a coliseum.¹⁷³ This tax applies both inside and outside the city limits (such as Snyder).¹⁷⁴

Tyler County

Tyler County has a population of 22,000 or less, borders the Neches River, and in which there is located a national preserve.¹⁷⁵ The maximum rate for Tyler County is seven percent. The Tyler County hotel occupancy tax does not apply in areas in which the city hotel occupancy tax is in effect.

Uvalde County

Uvalde County has a population of 28,000 or less, has no more than four municipalities, and is located wholly in the Edwards Aquifer Authority. Uvalde County may only use hotel occupancy tax revenue as follows: a) 75% of the revenue for promotion of tourism and lodging, and b) 25% of the revenue for the removal of trash and litter in river areas located in the county that are primarily used by lodging guests.¹⁷⁶ The maximum tax rate is seven percent, and the tax does not apply to municipalities within Uvalde County with a hotel occupancy tax.¹⁷⁷

Val Verde County

Val Verde County borders the United Mexican States and contains a national recreation area.¹⁷⁸ The maximum tax rate for Val Verde County is two percent for areas of the county subject to a municipal hotel occupancy tax (Del Rio, Texas), and is seven percent for all other areas of the County.¹⁷⁹ Val Verde County’s hotel tax revenue may only be used as follows: 75 percent for the promotion of tourism, and 25

¹⁷⁰ §§ 352.002(a-1), 352.003(h), 352.109(b-1).

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ § 352.002(h).

¹⁷⁴ *Id.*

¹⁷⁵ § 352.002(a) and (d).

¹⁷⁶ §§ 352.002(a)(15), 352.002(d), and 352.110.

¹⁷⁷ *Id.*

¹⁷⁸ § 352.002(a)(13).

¹⁷⁹ § 352.003(q).

percent for general revenue purposes or general governmental operations of the County.¹⁸⁰

Wilbarger County

As of 2019, Wilbarger County has the authority to impose a new, county-wide hotel occupancy tax at a maximum rate of two percent.¹⁸¹

Wilson County

Wilson County, with a population of not more than 50,000 and in which an annual peanut festival is held may impose a County hotel occupancy tax of up to two percent within the city limit and up to a seven percent for hotels that are not subject to a city hotel occupancy tax.¹⁸²

Zapata County

Zapata County does not have a municipality, has a population of 10,000 or more, and borders the United Mexican States. Although counties without a municipality usually have a maximum tax rate of four percent, the Code contains an exception for Zapata County; the maximum hotel tax rate for Zapata County is seven.¹⁸³

County Development Districts

Chapter 352 of the Tax Code authorizes commissioners' courts of counties with a population less than 600,000 (all counties except Bexar, Dallas, El Paso, Harris, Tarrant, and Travis) to impose a hotel occupancy tax within a county development district. Taxes collected by a county under this section shall be remitted to the county development district and may only be used to attract visitors and tourists to the county.¹⁸⁴ A County Development District operates under an additional tax that must be approved at an election held pursuant to Chapter 383 of the Local Government Code. A hotel occupancy tax within a county development district may not exceed 7 percent and cannot be imposed within municipal corporate limits.¹⁸⁵

For More Information

If a county or funded entity has additional questions about the administration or use of the hotel occupancy tax, it is welcome to contact the Texas Hotel & Lodging Association for assistance. THLA can be reached by phone at (512) 474-2996.

¹⁸⁰ § 352.108.

¹⁸¹ § 352.002(s).

¹⁸² §352.003(w).

¹⁸³ § 352.003(c).

¹⁸⁴ § 352.107.

¹⁸⁵ *Id.*

Appendix A

The chart on the next page provides a list of the counties that are authorized to impose a county hotel occupancy tax and the statutory authorization from Chapter 352 of the Tax Code. Also noted are the maximum tax rate, the section of the Tax Code that governs the use and administration of the tax, and whether the county is allowed to impose the tax in a municipality that imposes a hotel occupancy tax.

It is important to note that not all of the authorized counties listed in the table actually impose a county hotel occupancy tax. Additionally, those that do impose a tax may not set their tax rate at the maximum authorized level. The table reflects what is allowed under state law, and not necessarily the level at which Texas counties have elected to utilize such a tax. For example, certain counties are authorized to impose the tax by virtue of falling into a population or geographical bracket but choose not to impose the tax.

Counties Authorized to Impose County Hotel Occupancy Tax

Chapter 352 of the Texas Tax Code

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Anderson	Tax Code §§ 352.002(cc), 352.003(aa).	2%	Tax Code § 352.1037(b).	Yes
Angelina	Tax Code § 352.002(ee).	7%	Tax Code § 352.1031	No
Aransas	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033. May also use revenue for tourism projects such as aquariums and nature activities centers, as per § 352.1033(c).	No
Armstrong	Tax Code § 352.002(v).	Split rate depending on situs: 2% or 7%	Tax Code § 352.1031	2% rate applies to hotels that are subject to a municipal hotel tax; 7% rate applies to hotels not subject to a municipal hotel tax.
Atascosa	Tax Code §§ 352.002(bb), 352.003(z).	2%	Tax Code § 352.112.	Yes
Bandera	Tax Code § 352.002(a)(5)	7%	Tax Code § 352.1032	Yes

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Bastrop	Tax Code § 352.002(p)	Split rate depending on situs: 0.75% or 7%	Tax Code § 352.003(o)	0.75% rate applies to hotels that are subject to a municipal hotel tax; 7% rate applies to hotels not subject to a municipal hotel tax.
Bell	Tax Code § 352.002(n)	2%	Tax Code § 352.1033(a)	Yes
Blanco	Tax Code § 352.002 (a)(21)	7%	Tax Code § 352.1031	No
Borden	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Bosque	Tax Code § 352.002(a)(29)	7%	Tax Code § 352.1035	No
Brazoria	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Brazos	Tax Code § 352.002(a) and (g)	2% or 2.75% depending on special contract execution.	Tax Code §§ 352.003, 352.1034	Yes
Brewster	Tax Code § 352.002(a)(14)	7%	Tax Code §§ 352.1031, 352.102(c), 352.003(d)	No. Also, at least 1/3 of tax collected each year must be used in unincorporated areas of the County.
Burleson	Tax Code § 352.002(a)(24)	2%	Tax Code §§ 352.002(h), 352.003(j)	Yes
Burnet	Tax Code § 352.002 (a)(17)	7%	Tax Code § 352.1031	No
Calhoun	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Cameron	Tax Code § 352.002(a)(6) & (a)(11)	7%	Tax Code § 352.1033 & Tax Code § 352.106	No
Camp	Tax Code § 352.002(a)(9)	7%	Tax Code § 352.1031	Yes

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Chambers	Tax Code § 352.002(a)(6)	3%	Tax Code § 352.1033	Yes
Cooke	Tax Code § 352.002(x)	2%	Tax Code § 352.113; Tax Code § 352.003(u)	Yes
Crane	Tax Code § 352.002(j)	7%	Tax Code § 352.002(j)	No
Crockett	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Denton	Tax Code § 352.002(v)	2%	Tax Code 352.115.	Yes
Ector	Tax Code § 352.002(q)	2%	Tax Code § 352.003(r)	Yes. The revenue may only be used for a coliseum and to advertise and promote visitation to the coliseum.
El Paso	Tax Code § 352.002(a)(2) & (a)(4)	7%	Tax Code § 352.102	Yes, but subject to a maximum cap.
Fannin	Tax Code § 352.002(dd).	7%	Tax Code § 352.1033	No
Fort Bend	Tax Code § 352.002(ee).	Split rate depending on situs: 2% or 7%	Tax Code § 352.1031	2% rate applies to hotels that are subject to a municipal hotel tax; 7% rate applies to hotels not subject to a municipal hotel tax.
Franklin	Tax Code § 352.002(a)(23)	7%	Tax Code § 352.1031	No
Frio	Tax Code § 352.002(t)	7%	Tax Code § 352.002(t)	No
Galveston	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Gillespie	Tax Code § 352.002 (a) (21)	7%	Tax Code § 352.1031	No
Glasscock	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Guadalupe	Tax Code § 352.002(y)	7%	Tax Code § 352.1031 & Tax Code § 352.003(v)	Yes (but not New Braunfels), but limited to 2%
Harris	Tax Code § 352.002(a)(1)	7%	Tax Code § 352.101 & Tax Code § 352.105	Yes, but limited to 2% in Houston
Henderson	Tax Code § 352.002(o)	2%	Tax Code § 352.003(n) & Tax Code § 352.1037. Revenue may only be used to operate and maintain a fairground in the county.	Yes.
Hidalgo	Tax Code § 352.002(a)(11)	7%	Tax Code § 352.106	No
Hill	Tax Code § 352.002(a)(29)	7%	Tax Code § 352.1035	No
Hopkins	Tax Code § 352.002(a)(12)	7%	Tax Code § 352.1031	Yes
Houston	Tax Code § 352.002(k)	2%	Tax Code 352.003(m)	Yes
Hudspeth	Tax Code § 352.002(u)	7%	Tax Code § 352.002(u)	No
Jack	Tax Code § 352.002(a)(10)	7%	Tax Code § 352.1031	No
Jackson	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Jeff Davis	Tax Code § 352.002(a)(7)	7%	Tax Code § 352.1031	Yes
Jefferson	Tax Code § 352.002(a)(6)	2%	Tax Code § 352.1033	Yes
Jim Hogg	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Kendall	Tax Code § 352.002(l)	7%	Tax Code § 352.002(l)	No
Kenedy	Tax Code § 352.002(a)(3) & (a)(6)	4%	Tax Code § 352.103 & Tax Code § 352.1033	N/A (no municipalities)
King	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Kleberg	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Llano	Tax Code § 352.002(a)(22)	7%	Tax Code § 352.002(f); Tax Code § 352.1031	No
Leon	Tax Code § 352.002(a)(26)	2%	Tax Code §§ 352.1031, 352.003(j)	Yes
Loving	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Madison	Tax Code § 352.002(a)(27)	2%	Tax Code §§ 352.1031, 352.003(j)	Yes
Matagorda	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Maverick	Tax Code § 352.002(a)(4)	2%	Tax Code §§ 352.114, 352.1031	Yes
McMullen	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Midland	Tax Code § 352.002(a-1)	1%	Tax Code § 352.1031	Yes
Nueces	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Orange	Tax Code § 352.002(a)(28)	2%	Tax Code §§ 352.1031, 352.003(k), 352.111	Yes
Palo Pinto	Tax Code § 352.002(a)(10)	7%	Tax Code § 352.1031	No
Polk	Tax Code § 352.002(a)(4)	7%	Tax Code § 352.1031	No
Rains	Tax Code § 352.002(a)(9)	7%	Tax Code § 352.1031	Yes
Real	Tax Code § 352.002(a)(16)	7%	Tax Code § 352.1031	Yes
Refugio	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Robertson	Tax Code § 352.002(a)(25)	2%	Tax Code §§ 352.1031, 352.003(j)	Yes
Sabine	Tax Code § 352.002(a)(8)	7%	Tax Code § 352.1031	No

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
San Jacinto	Tax Code § 352.002(a)(20)	7%	Tax Code § 352.1031	No
San Patricio	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Scurry	Tax Code § 352.002(h)	2%	Tax Code § 1036	Yes
Somervell	Tax Code § 352.002(a)(9)	7%	Tax Code § 352.1031	No
Starr	Tax Code § 352.002 (a)(18)	2%	Tax Code § 352.003(g); Tax Code § 352.1031	Yes
Stephens	Tax Code § 352.002(a)(10)	7%	Tax Code § 352.1031	No
Terrell	Tax Code § 352.002(a)(3)	4%	Tax Code § 352.103	N/A (no municipalities)
Trinity	Tax Code 352.002(a)(19)	7%	Tax Code § 352.1031	No
Tyler	Tax Code § 352.002(a)(19)	7%	Tax Code § 352.1031	No
Uvalde	Tax Code § 352.002(a)(15)	7%	Tax Code §§ 352.002(d), 352.1031, 352.110	No
Val Verde	Tax Code § 352.002(a)(13)	Split rate depending on situs: 2% or 7%	Tax Code § 352.108, § 352.003(q). 75 percent of the revenue for the promotion of tourism, and 25 percent for general revenue purposes or general governmental operations of the County.	2% rate applies to hotels that are subject to a municipal hotel tax; 7% rate applies to hotels not subject to a municipal hotel tax.
Victoria	Tax Code § 352.002(a)(6)	7%	Tax Code § 352.1033	No
Washington	Tax Code § 352.002(i)	7%	Tax Code § 352.002(i)	No
Webb	Tax Code § 352.002(a)(2)	7%	Tax Code § 352.102	Yes
Wilbarger	Tax Code § 352.002(s)	2%	Tax Code § 352.1031	Yes

County	Statutory Authorization	Max Tax Rate under state law	Statutory Restrictions on Use of Tax Revenue	County Tax Applicable in Cities w/City Hotel Tax?
Willacy	Tax Code § 352.002(a)(6)	9%	Tax Code § 352.1033	No
Wilson	Tax Code § 352.002(z)	Split rate depending on situs: 2% or 7%	Tax Code § 352.1031	2% rate applies to hotels that are subject to a municipal hotel tax; 7% rate applies to hotels not subject to a municipal hotel tax.
Wise	Tax Code § 352.002(w)	2%	Tax Code §§ 352.115, 352.1031.	Yes
Wood	Tax Code § 352.002(a)(12)	7%	Tax Code § 352.1031	Yes
Young	Tax Code § 352.002(a)(10)	7%	Tax Code § 352.1031	No
Zapata	Tax Code § 352.003(c)	7%	Tax Code § 352.103	N/A (no municipalities)

Index

- Administrative costs, 18, 25, 28, 29
- Advertising, solicitations, and promotions that attract tourists and convention delegates to the city, 18
- Agricultural Development Corporations, 10
- Anderson, 34
- Appendix A, 4, 33
- Application form, 16
- Aransas, 28, 34
- Arts expenditures, 19
- Atascosa, 26, 34
- Attorney General. *See* Texas Attorney General's Office
- Audits, 13
- Austin, 13
- Authorized Entities and procedures, 4
- Bandera County, 26
- Borden, 28, 35
- Bosque, 26, 35
- Brazoria, 28, 35
- Brazos County, 26
- Buying a hotel, 14
- Calhoun, 28, 35
- Cameron, 27, 28, 35
- Cancellation fees, 6
- Chambers, 28, 36
- Charitable Organization, 10
- City and County Employees, 8, 10
- Collection schedule, 12
- Comptroller. *See* Texas Comptroller
- Contracts, 24
- Convention center, 17, 18, 22, 28, 29
- Convention Center funding, 17
- Convention registration, 18, 28, 29
- Cooke County, 27
- Counties with no municipality, 28
- County Development District, 32
- Crockett, 28, 36
- Delegating the Management of Funded Activities, 24
- Diplomats, 7
- Dormitories, 5
- Educational, Charitable, and Religious entities, 11
- El Paso County, 29
- Enforcement Authority of a County, 14
- Exemptions from the Tax, 6, 10, 11
- Extraterritorial Jurisdiction (ETJ), 4
- Fannin, 36
- Federal Employees, 7, 10
- Fiduciary duty, 24
- Food and beverages, 6
- Foreign Diplomats, 10
- Galveston, 28, 36
- Glasscock, 28, 36
- Gulf coast counties, 28
- Harris County, 29, 30
- Health Facilities Development Corporations, 11
- Hidalgo, 27, 37
- Hill County, 26
- Historical restoration and preservation, 21
- Hospitals, 5
- Jackson, 28, 37
- Jeff Davis, 37
- Jefferson, 28, 37
- Jim Hogg, 28, 37
- Kenedy, 28, 37
- King, 28, 37
- Kleberg, 28, 38
- Letter of No Tax Due, 14
- Letter of tax exemption, 8, 9, 10, 11
- List of activities, 23
- Loving, 28, 38
- Matagorda, 28, 38
- Maverick, 30, 38
- McMullen, 28, 38
- Meeting rooms, 5
- Midland County, 30
- Nueces, 28, 38
- Nursing homes, 5
- Open Records, 13
- Package rates, 6
- Penalties for Failure to Report or Collect the Tax, 13
- Permanent resident exemption, 7
- Permanent Residents, 11
- Post event form, 16
- Purchasing a hotel, 14
- Refugio, 28, 38
- Reimbursement of Hotel for Collection Expenses, 12
- Religious entities, 7, 8
- Reporting, 24
- Sales tax, 4, 8
- San Patricio, 28, 39
- Sanitariums, 5
- Scurry County, 31
- Separately stated, 6
- Signage, 22
- Simplified, Basic Hotel Occupancy Tax Exemption Rules, 10
- Sleeping rooms, 6
- Sporting events, 21, 22
- State Employees, 8, 11
- State officials, 7
- Statute of limitations, 14
- Tax Exemption Certificate, 7

Terrell, 28, 39
Texas Attorney General XE "Attorney General" \t "See
Texas Attorney General's Office" 's Office, 19
Texas Attorney General's Office, 8
Texas Comptroller's Office, 7
Texas Comptroller's Office, 5, 12, 13
Texas Educational Organizations, 10
Tyler County, 31
Use of Local Hotel Occupancy Tax Revenues Criteria

#2, 17, 22
Uvalde County, 31
Val Verde County, 31
Victoria, 28, 39
Visitor Information Center funding, 17
Webb County, 29
Willacy, 28, 40
Zapata, 28, 32, 40