

What Cities Need to Know to Administer the Local Hotel Occupancy Tax

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Contents

Introduction.....	3
Authorized Entities and Procedures	3
Who Charges the Tax.....	3
Exemptions from the Local Tax	4
<i>Simplified, Basic Hotel Occupancy Tax Exemption Rules</i>	<i>5</i>
How the City Receives the Tax.....	8
Penalties for Failure to Report or Collect the Tax.....	8
Enforcement Authority of a City.....	9
Use of Local Hotel Occupancy Tax Revenues	10
Criteria #1: First, every expenditure must DIRECTLY enhance and promote tourism AND the convention and hotel industry.....	10
Criteria #2: Every expenditure of the hotel occupancy tax must clearly fit into one of nine statutorily provided categories for expenditure of local hotel occupancy tax revenues.....	11
1) Funding the establishment, improvement, or maintenance of a convention center or visitor information center.....	11
2) Paying the administrative costs for facilitating convention registration	12
3) Paying for advertising, solicitations, and promotions that attract tourists and convention delegates to the city or its vicinity	12
4) Expenditures That Promote the Arts	13
5) Funding Historical Restoration or Preservation Programs	13
6) Funding Costs in Certain Counties to Hold Sporting Events that Substantially Increase Hotel Activity: Cities within Counties of under 1 million population	13
7) Funding the Enhancement or Upgrading of Existing Sports Facilities or Sports Fields for Certain Municipalities.....	14
8) Funding transportation systems for tourists	15
9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.	15
Summary of the Nine Uses for the Local Hotel Occupancy Tax	16
<i>Duty of Funded Entities to Provide a List of Activities It Will Offer that Promote Tourism and Hotel and Convention Activity</i>	<i>16</i>
<i>Use of Hotel Occupancy Tax to Cover Administrative Expenses</i>	<i>17</i>
<i>Additional Limits on Expenditures Based on City Population.....</i>	<i>17</i>
<i>Additional Rules for Certain Large Coastal Municipalities (Corpus Christi)</i>	<i>21</i>
<i>Special Rules for Medium Sized “Eligible Coastal Municipalities” (Galveston)</i>	<i>21</i>
<i>Special State Funding for Beach Clean-Up (Galveston).....</i>	<i>22</i>
<i>Special State Funding for Beach Clean-Up (Port Aransas and South Padre Island)</i>	<i>23</i>
<i>Special Rules for Medium Sized Home Rule Coastal Cities with Less than 80,000 Population & that Border Bays (Ingleside, Portland, Aransas Pass, La Porte, Seabrook, Port Aransas, Port Lavaca, Rockport, Baytown, Texas City, Palacios).....</i>	<i>23</i>
<i>Special Rules for Small Coastal Municipalities with Population Less than 5,000 Adjacent a Home-rule City with a Population of 80,000.” (Jamaica Beach)</i>	<i>24</i>
<i>Special Rules for the City of Alpine.....</i>	<i>24</i>
Delegating the Management of Funded Activities	25

Introduction

Communities in Texas are increasingly looking to tourism for much-needed revenue. Currently, over 500 Texas cities levy a local hotel occupancy tax. In 2008, this tax generated over \$1 billion in revenues for local government to use to fund activities and facilities that directly promote tourism and local hotel and convention activity. If a hotel guest is motivated to come to an area or to extend their stay to enjoy activities of funded entities, the local and state economies benefit. In turn, the room tax on the additional hotel nights operates as a continuing endowment to fund future activities and tourism-related facilities that generate hotel activity in the area.

Authorized Entities and Procedures

Both general law and home rule cities are authorized to adopt a local hotel occupancy tax within the city limits. Most cities are eligible to adopt a hotel occupancy tax of up to 7 percent of the price paid for the use of a hotel room.

A city with a population of under 35,000 may also adopt the hotel occupancy tax within that city's extraterritorial jurisdiction (ETJ). If a city adopts the hotel occupancy tax within its ETJ, the combined state, county, and municipal hotel occupancy tax rate may not exceed 15 percent. In 2007, Texas had the two highest hotel occupancy tax rates of any major metropolitan areas in the country with Houston at 17 percent and San Antonio at 16 $\frac{3}{4}$ percent.

Who Charges the Tax

The following businesses are considered "hotels" and are required to charge the tax: a hotel, motel, home used by tourists for less than 30 days, inn, rooming house for less than 30-day stays, or bed and breakfasts. Hospitals, sanitariums, nursing homes, and dormitories or other non-hotel housing facilities owned by institutions of higher education may not charge the tax.

The tax must be imposed against any "person" (including corporations and other legal entities) who pays for the use of a room in a hotel. The price of the room does not include the cost of food served by the hotel or the cost of other personal services unless a package rate is given that includes both the room rate and these amenities.

The state hotel occupancy tax applies to both the cost of using a sleeping room and to the cost of renting a meeting space within a hotel. Similarly, the state hotel occupancy tax would apply to the cost to rent a meeting room within a building that is connected to the hotel by a covered pathway or portico that is part of the hotel structure. If a meeting room structure is completely separate from the hotel and is not connected by a covered pathway or portico, the rental of the facility would not be subject to the state or local hotel occupancy tax.

Unlike the state hotel occupancy tax, the local hotel occupancy tax may only be assessed against the cost of a room that is ordinarily used for sleeping (including any charges to ready or

use the room; e.g., pet charges, rollaway bed charge, room safe charges). If a charge is automatically included with each reservation or for room night charge, it is likely that the local and state hotel tax will apply to the charge. If it is an optional charge for services that are actually provided, what tax is applicable will depend on the nature of the service or product. The local hotel occupancy tax does not apply to the cost to rent meeting/banquet/event space within a hotel since these rooms are not considered “sleeping rooms.” It should also be noted that the rental of sleeping rooms or of meeting/banquet/event space is never subject to the state or local city sales tax. Sales tax, however, would apply to food charges for a banquet or meal.

Exemptions from the Local Tax

Texas statute exempts the following individuals from payment of the local hotel occupancy tax, if they are traveling on official business: 1) federal employees, 2) foreign diplomats with a tax exempt card issued by the U.S. Department of State, 3) a very limited number of state officials with a hotel tax exemption card (heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges), and 4) persons or businesses who have agreed in advance to use a hotel room for more than 30 consecutive days. All individuals claiming one of the above exemptions are required to show appropriate identification and to fill out a Hotel Occupancy Tax Exemption Certificate. A certificate form that can be used for this purpose is available on the State Comptroller’s website at <http://www.window.state.tx.us/taxinfo/taxforms/12-forms.html>. Lodging operators and other interested parties can also access an internet searchable list of all of the entities that have been granted a letter of exemption from the state hotel occupancy tax. This site can be accessed at <http://www.window.state.tx.us/taxinfo/hotel/index.html>.

State Employees: Virtually all rank and file state employees do NOT have a special hotel occupancy tax exemption card that prevents them from having to pay the state and local hotel 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 then later apply for a refund from the state and local government tax offices. The state agency is responsible for later requesting this refund from the state and local government.

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

Treatment of Exempt Entities With/Without Letter of Exemption: As noted earlier, the Comptroller provides on the Internet a list of the entities that have been granted a Letter of Exemption from the state hotel occupancy. This list can be accessed at

<http://www.window.state.tx.us/taxinfo/hotel/index.html>. Once you access this site, you can search by the name of the entity to determine whether it has been granted a letter of exemption from the state hotel occupancy tax. You can also refer to the below chart for a quick explanation of which types of entities are generally exempt and whether the entity is exempt from both the State and local hotel occupancy tax. The Comptroller’s Office has indicated that a lodging operator may honor an exemption even for an entity that does not have a letter of exemption, if the entity would have qualified under state law for the exemption if it had applied. In such a case, check the identification papers (id, business card, etc.) for the traveler. If the entity fits into one of the exempt categories under the THLA exemption chart, honor the exemption. Make a copy of the identification item you are relying on, and be sure that all such travelers fill out the exemption form.

Different Treatment of Sales Tax and State versus Local Hotel Tax: It is important to note that many entities are exempt from the state sales tax but are not exempt from the state or local hotel occupancy tax. Similarly, there are entities such as Educational, Charitable, and Religious entities that are exempt from the State hotel occupancy tax but must pay the city and county hotel occupancy tax (if applicable). Review the following chart and call the Texas Hotel & Lodging Association at (512) 474-2996 with any questions that may arise.

Simplified, Basic 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 Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
City & County Employees	No	No	
Charitable Organizations	Depends*	No	* Would include religious entities as exempt. Other entities must be able to show that they devotes 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. Would include religious entities as exempt. Other 501 (c) (3) and 501 (c) (6) entities are not exempt. Guest must present Comptroller letter of exemption Guest must also fill out tax exemption certificate
Texas Educational Organizations (Independent school districts, private or public elementary and secondary schools of Texas or other states. Private or public	Yes	No	Guest must also fill out tax exemption certificate The Legislature amended state law to limit 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

What Cities Need to Know to Administer the Local Hotel Occupancy Tax

colleges and universities, junior colleges, technical institutes, and medical or dental schools of Texas)			from the state or local hotel tax. Out-of-state educational entities that are not institutions of higher education (high schools), however, are exempt from state hotel tax just like their Texas counterparts.
Electric & Telephone Cooperatives	Yes	Yes	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
Federal Credit Unions	Yes	Yes	Texas Comptroller opinion letters indicate that employees traveling on official business as employees of a federal credit union are treated as federal government employees. Guest must also fill out tax exemption certificate.
Federal Employees (includes FEMA and Red Cross Reimbursed Rooms)	Yes	Yes	Guest must also fill out tax exemption certificate
Foreign Diplomats	Yes	Yes	Guest must present tax exempt card issued by U.S. Department of State Guest must also fill out tax exemption certificate
Health Facilities Development Corporations	Yes	Yes	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
Housing Authorities & Finance Corporations	Yes	Yes	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
Pan American Games 2007 & Olympic Games 2012 Local Organizing Committees	Yes	Yes	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
Permanent Residents (30 days or more)	Yes	Yes	Guest must notify of their intent to stay 30 or more days from the beginning. If stay is interrupted, hotel occupancy taxes must be paid. Guest who do not notify the hotel of the anticipated over 30 day duration of their stay are exempt for hotel occupancy taxes beginning on the 31 st consecutive day of their stay.
Public Facility Corporation	Yes	Yes	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site Guest must also fill out tax exemption certificate
Regional Education Service Centers	Yes	No	Guest must also fill out tax exemption certificate
Religious Organizations	Yes	No	Guest must present Comptroller letter of exemption or verification from the Comptroller Web site

What Cities Need to Know to Administer the Local Hotel Occupancy Tax

			Guest must also fill out tax exemption certificate
High Ranking State Officials with Photo ID Hotel Tax Exemption Card	Yes	Yes	<p>These are heads of state agencies; members of state boards and commissions; state legislators and their staff; and state judges.</p> <p>Guest must present state photo ID card that <u>specifically notes that employee is exempt from hotel occupancy tax.</u></p> <p>Guest must also fill out tax exemption certificate</p>
General State Employees without Special Photo ID Hotel Tax Exemption Card	No	No	<p>Guest must pay the tax, and the state or local government will then be reimbursed by their state employer through a separate process.</p>

How the City Receives the Tax

The hotel occupancy tax is paid by the hotel customer to the hotel. The tax is then remitted by the hotel to the city on a regular basis, to be established by the city. The State Comptroller's Office is not involved in the collection of the local hotel occupancy tax. For the convenience of hotel operators, many cities use the same reporting and used by the state for collection of the hotel occupancy tax. The State requires hotels to turn over collected hotel occupancy taxes on a monthly basis. Some hotels in smaller communities, however, petition the State Comptroller for permission to turn over the tax proceeds on a quarterly basis.

Cities that levy the hotel occupancy tax often send a tax return form to each hotel operator at least two to four weeks before the taxes are due. Regardless of the reporting period used, cities often require hotels to include as part of their report a copy of the hotel's tax report done for the State Comptroller. The state report data can be used to check the local report provided by the hotel to the city. It is important to remember, however, that the amount of taxable revenue will vary to a certain degree between the state and local hotel tax based on the amount of state hotel tax exempt business that a property handles that is not exempt from the local hotel tax, and the amount of meeting room rentals that are subject to solely the state hotel tax.

Reimbursement of Hotel for Collection Expenses

Hotel operators may be allowed by ordinance to retain up to 1 percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax. There is not a comparable provision under state law that allows city governments to retain any of the collected tax to cover costs of imposing or collecting the tax. However, cities that undertake responsibility for administering a facility or event funded by the local hotel occupancy tax may be reimbursed from the tax revenues for actual expenses incurred in operating the facility or event, if the expenditure directly promotes tourism and local hotel and convention activity.

Penalties for Failure to Report or Collect the Tax

The local hotel occupancy tax statutes provide for specific penalties that may be assessed against hotel operators who fail to file the hotel tax collections report, file late or without full payment, or produce false tax returns. A city may include a provision in its hotel occupancy tax ordinance that imposes a 15-percent penalty and a provision allowing the collection of attorney's fees against any hotel operator who is delinquent or fraudulent in remittances.

The hotel occupancy tax ordinance may also include a provision that makes it a criminal misdemeanor offense to fail to collect the tax, fail to file a return, file a false return, or fail to timely make the remittances. Municipal courts may assess a fine not to exceed \$500/day for any such offense.

Under recent legislation, cities can also require a hotel that is more than six months delinquent

in remitting its local hotel occupancy tax to pay the costs of a city audit of the hotel revenues. A city may request hotel occupancy tax audit information from the State Comptroller. However, the city must keep such information confidential and use the information only for enforcement or administration of the city's hotel tax. To obtain such information, a city 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 city letterhead and signed by a high-level city official, preferably the mayor. A city may also fax such a written request to the Comptroller's Office, Open Records Section, at (512) 475-1610.

Enforcement Authority of a City

Cities 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:

- ◆ require the forfeiture of any revenue the city allowed the hotel operator to retain for its cost of collecting the tax;
- ◆ bring a civil suit against the hotel operator for noncompliance;
- ◆ ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid; and
- ◆ any other remedies provided under Texas law.

The most noteworthy of these remedies is the ability of the city to request that the district court close down 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 city may also require in its hotel occupancy tax ordinance 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 city. 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.

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

Use of Local Hotel Occupancy Tax Revenues

There is a two-part test that every expenditure of local hotel occupancy tax must meet to be valid.

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

In other words, a funded event or facility must be likely to do two things: 1) directly promote tourism; and 2) directly promote the convention and hotel industry. With regard to the first prong of Criteria #1, tourism is defined under Texas State law as bringing visitors from outside of the city (from a different city or county) into the city or its vicinity. With regard to the second prong of Criteria #1, state law does not specifically define what constitutes a “direct” promotion of the convention and hotel industry. However, this requirement has been consistently interpreted by the Attorney General’s Municipal Affairs Section and by the Texas Municipal League. They have historically indicated that to directly promote the convention and hotel industry, the event or facility must be likely to cause increased hotel or convention activity. This activity may result from hotel or convention guests that are already in town and choose to attend the hotel tax funded facility or arts or historical event. Alternatively, 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 tax funded event or facility.

If the funded event or facility is not reasonably likely to have such an effect, local hotel occupancy tax revenues cannot legally fund it. It is important to note, however, that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for city funding from most of the other funding sources available to the city (general property tax revenues, general sales tax revenues, franchise fee revenues, etc.). State law is simply stricter in terms of how the local hotel occupancy tax monies can be spent.

There is no set formula for determining whether an event will directly promote tourism and hotel and convention activity. Often the first time an event is held it can only be hypothesized as to whether it is likely to be frequented by tourists and hotel guests. An applying entity should be asked to indicate in its city funding application how it would market the event to attract tourists and hotel guests. If an entity does not market its events outside of the city or in some other way provide notice of the events to guests of hotels, it is difficult to argue that the events or facility will promote tourism and hotel activity. It is also worth considering 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 that is hosting the function is likely to attract tourists and hotel guests. Similarly, if an event is labeled and implemented to be 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 not likely be eligible for hotel occupancy tax

funding. Finally, it is good to use a hotel tax application form. THLA has a sample hotel occupancy tax application form and a “post event” form that are already in use by many city governments throughout Texas. For a copy of these two forms, simply call THLA at (512) 474-2996. These forms pose questions of funding applicants such as “Do you have a hotel room block for your event, 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 block or negotiate a special hotel rate, it is not likely that they anticipate the event will have any reasonable impact on hotel activity.

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

After an event has been offered for several years, funded entities will likely have a reasonable idea as to whether the facility or event’s attendance includes a number of tourists and hotel guests. Some entities keep a guest register at funded events to quantify the number of out-of-towners in attendance. Some entities have added a box on such guest registers that individuals can check if they are staying at a local hotel. Some entities measure potential out-of-town attendance from their ticket sales records or other gathered information.

It is important to note that state law also provides that the hotel occupancy tax may not in any circumstance be used for purposes that the city usually expends its general revenues. It also may not be used to pay for governmental expenses that are not directly related to increasing tourism and hotel and convention activity. For example, consider a request to use the hotel occupancy tax to pay for construction of additional lighting, bathrooms, roads, or landscaping in a downtown area. These are expenditures for which the city would traditionally use its general revenues. It is difficult to argue that such improvements 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 Tax Code to qualify for funding from the hotel occupancy tax.

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

The nine categories for expenditure of the hotel occupancy tax 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 tax for the creation, improvement, or upkeep of

a convention center or a visitor information center. State law specifies that for a facility to be funded as a convention center it must be one that is primarily used to host conventions and meetings. “Primarily used” in this context would arguably mean 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. In other words, holding local resident meetings in a facility would not count toward qualifying the facility as a convention center, but meetings of individuals from out-of-town who in part stay at hotels would qualify.

The term “convention center” is defined to include civic centers, auditoriums, exhibition halls, and coliseums that are owned by the city or another governmental entity or that are managed in whole or in part by the city. It also includes parking areas in the immediate vicinity of other convention center facilities, and certain hotels that are owned by the city or another governmental entity, or that are managed in whole or in part by the city. It does not include facilities that are not of the same general characteristics as the structures listed above.

Simply naming a facility a convention center or visitor information center does not bring it under this section. The authority to use the hotel occupancy tax for facilities is limited. For example, the Attorney General has specifically ruled against the expenditure of local hotel occupancy taxes for a city recreational facility such as a golf course or a tennis court. Similarly, general civic buildings such as the City Hall, local senior citizen centers or activity centers would not qualify as convention centers that could be funded by hotel tax.

2) Paying the administrative costs for facilitating convention registration

This provision allows expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees. It may include covering the personnel costs and costs of materials for the registration of convention delegates or attendees.

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

This provision allows expenditures for solicitations or promotional programs/advertising that is directly related to attracting tourists and convention delegates to the city or its vicinity. Such expenditures are traditionally in the form of newspaper, mail, television, or radio ads or solicitations to promote an event or facility. The advertising or promotion must have the impact of directly promoting the hotel and convention industry. For example, the Attorney General has 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 city.

In certain cases, a city may be able to use the advertising and promotion category to justify covering the costs of advertising an event that will attract tourists and hotel guests, even though the administrative or facility costs for the underlying event would not qualify for hotel tax funding.

4) Expenditures That Promote the Arts

This section authorizes the expenditure of local hotel occupancy tax for a variety of art-related programs that also would promote tourism and local hotel and convention activity. 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. **However, it is not enough that a facility or event promotes the arts; state law requires that the arts related expenditure also must be likely to directly promote tourism and the hotel and convention industry.**

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 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.” There are many success stories of cities that have partnered with the arts entities to turn one day/evening 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 the hotel tax proceeds that can be made available to the arts.

5) Funding Historical Restoration or Preservation Programs

This section anticipates that a city may spend a portion of its hotel occupancy tax revenues to enhance historical restoration and preservation projects within the city or its vicinity **that are likely to attract tourists and hotel guests**. This funding can include the costs for rehabilitation or preservation of existing historic structures. State law does not limit such funding to structures that are owned by a public or nonprofit entity, but the city may choose to impose such a limitation. This category could also include the costs of advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit such preserved historic structures or museums. **However, it is not enough that a facility or event promotes historical restoration and preservation; state law requires that the historical related expenditure also must be likely to directly promote tourism and the hotel and convention industry.** 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) recently 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.” Similar to the arts, there are many success stories of cities that have partnered with the historic preservation advocates to turn one day/evening events into multi-day events that can substantially increase tourism and hotel activity.

6) Funding Costs in Certain Counties to Hold Sporting Events that Substantially Increase Hotel Activity: Cities within Counties of under 1 million population

This section authorizes a municipality to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses that are directly related to a sporting event in counties with a population of less than one million. 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.” The statutory authorization also requires that a majority of the participants in the sporting event must also be tourists to the area. This new provision was intended to allow communities to fund the event costs for sporting tournaments that result in substantial hotel activity. For example, if a city had to pay an application fee to seek a particular sporting event or tournament, it could use this authority if the event would substantially increase economic activity at hotels and the city was within a county of under one million population. The requirement that a majority of the participants must be “tourists” was included to prohibit the use of local hotel tax for sporting related facilities or events are purely local (e.g.; local recreation centers, local little league and parks events, etc). Source: Tex. Tax Code § 351.101(a)(6).

7) Funding the Enhancement or Upgrading of Existing Sports Facilities or Sports Fields for Certain Municipalities

This statutory category allows certain cities to use local hotel occupancy tax to enhance and upgrade existing sports facilities owned by certain municipalities. Acceptable sports facilities include those for baseball, softball, soccer, and flag football. The municipality must own the sporting facility, and the municipality must meet one of the following population requirements:

- The municipality must have a population of 80,000 or more, and be located in a county that has a population of 350,000 or less: **Abilene, Amarillo, Beaumont, Brownsville, Corpus Christi, Killeen, Laredo, Lubbock, Midland, Odessa, Round Rock, San Angelo, Tyler, Waco, and Wichita Falls.**
- The municipality must have a population of at least 65,000 but not more than 70,000, and be located in a county that has a population of 155,000 or less: **College Station and Bryan.**
- The municipality must have a population of at least 34,000 but not more than 36,000, and be located in a county that has a population of 90,000 or less: **Texarkana and Huntsville.**
- The municipality must have a population of at least 13,000 but not more than 39,000, and located in a county that has a population of at least 200,000: **Addison, Alamo, Alvin, Angleton, Balch Springs, Bellaire, Belton, Benbrook, Burleson, Cedar Park, Colleyville, Coppell, Deer Park, DeSoto, Dickinson, Donna, Duncanville, Farmers Branch, Friendswood, Frisco, Georgetown, Groves, Harker Heights, Humble, Hurst, Keller, La Marque, Lake Jackson, Lancaster, Mansfield, Mercedes, Nederland, Pearland, Pflugerville, Port Neches, Portland, Rosenberg, San Benito, San Juan, Schertz, Socorro, South Houston, Southlake, Stafford, Taylor, The Colony, Universal City, University Park, Watauga, Waxahachie, Weslaco, West University Place, White Settlement, and Wylie.**
- The municipality must have a population of at least 65,000 and no part of the city is located in a county with a population greater than 150,000: **Longview.**

- The municipality is located in a county that is adjacent to the Texas-Mexico border, has a population of at least 500,000 and the county does not have a municipality with a population greater than 500,000: Cities in **Hidalgo County** including, but not limited to, **McAllen, Edinburg, Mission, and Pharr**.

State law further requires that the sports facilities and fields must have been used a combined total of more than 10 times for district, state, regional, or national sports tournaments in the preceding calendar year to qualify for hotel tax funding under this category.

If hotel tax revenues are spent on enhancing or upgrading a sports facility, the municipality must determine the amount of “area hotel revenue” that was generated by hotel activity from sports events that were held at the hotel tax funded facility for five years after the upgrades to the sport facility are completed. The area hotel revenues that were generated from sports events at the hotel tax funded facility over that five year period must at least equal the amount of hotel tax that was spent to upgrade the sports facility. If the amount of hotel tax that was spent on the facility upgrades exceeds hotel revenue attributable to the enhancements over that five year period, the municipality must reimburse the hotel occupancy tax revenue fund any such difference from the municipality’s general fund. For example, if a city spent \$400,000 on improvements to its soccer fields, it would have to show at least \$400,000 in hotel night or other area hotel revenue (hotel banquet revenue) directly attributable to events held at that soccer field over the five year period after the soccer field improvements were completed. If the city could only show \$300,000 in hotel industry revenue due to events held at that soccer field, the city would have to reimburse the city hotel tax with the \$100,000 difference from the city’s general fund.

Source: Tex. Tax Code § 351.101(a)(7).

8) Funding transportation systems for tourists

Often with conventions and large meetings, there is a need to transport the attendees to different tourism venues. In 2007, the Legislature authorized the use of city hotel tax for any sized city to cover the costs for transporting tourists from hotels to and near the city to any of the following destinations:

- the commercial center of the city;
- a convention center in the city;
- other hotels in or near the city; and
- tourist attractions in or near the city.

The reimbursed transportation system must be owned and operated by the city, or financed in part by the city. The law specifically prohibits the use of the local hotel tax to cover the costs for transporting the general public by any such system.

9) Signage directing tourists to sights and attractions that are visited frequently by hotel guests in the municipality.

In 2009, the Texas Legislature added a statutory category that allows cities to use municipal

hotel occupancy tax revenue to pay for signage that directs the tourists to sights and attractions that are visited frequently by hotel guests in the municipality. Arguably, this type of expenditure was permissible as “advertising and promotion” prior to this 2009 legislation. However, the Legislature codified this understanding to officially include signage directing tourists to sights and attractions that are frequently visited by hotel guests.

Source: Tex. Tax Code § 351.101(a)(8).

Summary of the Nine 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 counties and cities noted above fund certain costs for holding sporting events and making upgrades to sporting facilities that substantially increase local hotel activity, certain transportation costs for taking tourists from hotels to various locations, and pay for signage directing tourists to sights and attractions frequently visited by hotel guests. If the city cannot fit an expenditure within one of these nine categories, hotel occupancy tax revenues can not be used for that purpose unless a special state statute was passed to allow such additional uses. In a later section of this article, there is a summary of all of the special provisions and limitations placed on cities that fall into certain population brackets or special geographic areas of the state.

With regard to the use of local hotel occupancy taxes, there is no time limit for a city to expend all of its hotel occupancy tax funds. *At a minimum, however, state law does require that for cities with a seven percent local hotel tax rate, at least one-seventh of the hotel tax proceeds must be spent advertising and promoting the city to directly impact tourism and the hotel and convention industry.* It should also be noted that state law requires that interest earned on hotel tax must be spent in the same way as other hotel tax revenues. State law does not address revenues that are earned from events funded by the local hotel occupancy tax.

Duty of Funded Entities to Provide a List of Activities It Will Offer that Promote Tourism and Hotel and Convention Activity

Since 2001, all entities (including the city itself) that are directly or indirectly funded by the local hotel occupancy tax are required each year to provide a list of the scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry. This list is to be provided annually to the city secretary or his/her designee prior to the expenditure of the hotel occupancy tax funding by the funded entity. An entity may add items to this list at any time. Each city decides the format that it would like to have this information provided. This documentation requirement does not apply if the entity already provides written information to the city that indicates which scheduled activities or events that it offers that directly enhance and promote tourism and the convention and hotel industry.

This requirement would arguably be satisfied if, once a year, a funded entity took its calendar of events for the year and circled the items that are reasonably expected to directly promote tourism and the hotel and convention industry. The entity would circle events that it has in some way marketed to and anticipates attendance by tourists and hotel guests. If an entity does not have any such events or programs, it is not eligible for local hotel occupancy tax funding. If only a portion of an entity's programs fit this criterion, then only a proportionate portion of that entity's costs should be covered by the local hotel occupancy tax.

Use of Hotel Occupancy Tax to Cover Administrative Expenses

State law allows proceeds of the tax to be used to cover the portion of administrative costs that are directly attributable to work on activities that may be funded by the tax. For example, entities that manage activities funded by the hotel occupancy tax may spend some of the tax for certain day-to-day operational expenses. These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs. These costs can be reimbursed only if they are incurred in the promotion and servicing of expenditures authorized under the hotel occupancy tax laws. The portion of the administrative costs that are covered should not exceed the percentage of the cost that is attributable to the activity funded by the hotel occupancy tax. In other words, administrators who spend 33 percent of their time overseeing hotel occupancy tax funded programs should seek funding for no more than 33 percent of their salary or 33 percent of other related overhead costs. Second, local 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. This travel should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.

Additional Limits on Expenditures Based on City Population

Texas statutes provide certain additional rules regarding the percentage of hotel occupancy tax revenues which may be spent on each of the nine categories of expenditures discussed above (convention centers, convention registration, advertising and promotion, promotion of the arts, historical restoration and preservation, and certain sporting event expenses in smaller and medium-sized communities). The rules differ based on the population of the city. In addition, there are a few additional types of permissible expenditures for cities within certain geographic areas of the state (e.g.; certain coastal communities, etc). These special provisions and the cities they impact are noted below.

Questions regarding special rules that may be applicable to a particular city can be directed to the Texas Hotel & Lodging Association at (512) 474-2996, the Texas Municipal League at (512) 231-7400, or the Municipal Affairs Section at the Office of the Attorney General at (512) 475-4683.

Cities with Populations in Excess of 200,000

(Arlington, Austin, Corpus Christi, Dallas, El Paso, Fort Worth, Garland, Plano, San Antonio. Please note that Houston is covered by another applicable category covered later)

In addition to the general two part test for all expenditures of the hotel occupancy tax, the above cities have certain specific expenditure limitations that also apply to their handling of the local hotel occupancy tax.

Minimum expenditure that must be spent on advertising and promotion

A city with a population of over 200,000 is required to spend at least 50 percent of the hotel occupancy tax collected by the city on advertising and conducting solicitations and promotional programs to attract tourists to the city or its vicinity. An exception to the 50 percent requirement is provided if the city receives in excess of \$2 million in hotel tax revenues annually. Currently, all cities with a population of 200,000 fall under this exception so this 50 percent requirement has no effect.

15 Percent maximum expenditure for the arts and 15 percent maximum expenditure for historical restoration and preservation

Generally, cities with populations of more than 200,000 are limited to a set percentage of the hotel occupancy taxes received that may be spent for certain categories of expenditures. For example, such cities may not spend more than 15 percent of their hotel occupancy tax revenues or no more than the amount of tax received by the city at the rate of 1 percent of the cost of a room, whichever is greater, on promotion of the arts. Also, such cities may spend no more than 15 percent of their hotel occupancy tax on historical restoration and preservation programs.

Source: Tax Code Section 351.103 (a) and (c).

Special Rules for the City of Houston

Minimum 23 Percent Expenditure for Advertising and Promotion: The minimum amount that must be spent on advertising and promotion by the City of Houston is 23 percent, unless the allocation impairs its ability to spend the revenue for operation and maintenance of its convention center facilities or to pledge revenue for the payment of convention center bonds.

Maximum 19.3 Percent Expenditure for Arts: Houston’s maximum for art expenditures is 19.30 percent of its hotel occupancy tax revenues or the amount of tax received by the city at the rate of 1 percent of the cost of a room, whichever is greater.

Maximum Hotel Occupancy Tax Rate for Houston: Houston is capped by statute at a total hotel occupancy tax rate of 17 percent. This includes the state, city, county, and sports authority hotel occupancy taxes.

Additional Rules for Dallas, Fort Worth, San Antonio, and Arlington (Eligible Central Municipalities)

Dallas, Fort Worth, San Antonio, and Arlington also fall under the statutory definition of an “eligible central municipality.” An eligible central municipality is defined as a

“municipality with a population of more than 140,000 but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.”

Ability to Pledge Revenue from Convention Center Hotel or Historic Hotel: Dallas, Fort Worth, San Antonio, and Arlington are allowed to pledge their hotel occupancy tax revenue for a convention center hotel, a historic hotel, convention center entertainment related facilities, restaurants, or certain civic projects. However, only the revenue collected from that particular project for a period of up to ten years may be pledged. They are also permitted to pledge the sales tax from such a project to repay the costs for up to ten years.

Source: Tax Code Section 351.102 (a) and Section 351.103 (b), Section 151.429 (h)

Dallas Only: 55 % Maximum on Convention Center and 45 % Minimum on Advertising: Dallas falls into an additional category, “Populous Municipalities with Council-Manager Government,” which requires it to use the revenue derived from the portion of the city hotel occupancy tax rate that exceeds 4 percent for the following purposes: 1) no more than **55 percent for the municipality’s convention center complex**; and 2) at least **45 percent for advertising and promotion**. The other noted rules for expenditure of the hotel occupancy tax for cities with a population in excess of 200,000 would apply to the first four percent portion of the rate.

Additional 2 Percent for Convention Center Facility (Dallas, Fort Worth, San Antonio):

Dallas, Fort Worth, and San Antonio both have a 9 percent maximum municipal hotel occupancy tax rate. The revenue derived from application of the tax at a rate more than 7 percent and its interest income must be used for the construction of an expansion of an existing convention center facility. However, the nine percent maximum rate does not apply to cities with a population of less than 440,000 (Arlington).

Source: Tax Code Section 351.001 (7), Section 351.003 (b), Section 351.106, and Section 351.1065.

Cities with Populations between 125,000 and 200,000 (Amarillo, Brownsville, Grand Prairie, Irving*, Laredo, Lubbock, and Pasadena)

Minimum Expenditure that Must Be Spent on Advertising and Promotion

For cities with populations between 125,000 and 200,000, the amount that must be spent on advertising and promotion depends on the hotel occupancy tax rate adopted by the city. If the city adopted a rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity. If the city adopted a rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity. For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract

tourists and hotel and convention activity. An exception to the minimum threshold for advertising and promotion expenditures is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.

15 Percent Maximum Expenditure for the Arts and 15 Percent Maximum Expenditure for Historical Restoration and Preservation

Cities with populations between 125,000 and 200,000 may not expend more than 15 percent of the hotel occupancy tax, or no more than the amount of tax received by the city at the rate of 1 percent of the cost of a room, whichever is greater, on promotion of the arts. Similarly, cities within this population bracket may not expend more than 15 percent of the hotel occupancy tax or no more than the amount of tax received by the city at the rate of 1 percent of the cost of a room, whichever is greater, on historical restoration and preservation. More simply stated there is generally a 15 percent limit on expenditures for the arts and the same limit for expenditures for historical restoration and preservation. If the city's hotel occupancy tax rate is lower than 7 percent, the maximum for expenditure for the arts and historical purposes will be slightly higher. As noted earlier, all arts and historical preservation expenditures must also meet the second criteria of "directly promoting tourism and the hotel and convention industry."

Source: Tax Code Section 351.103 (a) and (c).

*The City of Irving has special legislation that ends in 2022 that allows it to provide a set supplement to its arts hotel tax funding. The legislation mandates that the historic amount spent for advertising the city cannot be reduced during that time.

Cities with Populations of Less than 125,000

Minimum Expenditure that Must Be Spent on Advertising and Promotion

For cities with a population of less than 125,000, the amount that must be spent on advertising and promotion depends on the hotel occupancy tax rate adopted by the city. If the city adopted a hotel occupancy tax rate of not more than 3 percent, at least one-half of 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity. If the city adopted a hotel occupancy tax rate that exceeds 3 percent, at least 1 percent of the rate must be spent on advertising and promotion of the city and its vicinity. For example, if a city has a 7 percent hotel occupancy tax rate, at least 1/7 of the hotel occupancy tax proceeds must be spent on advertising and promoting the city and its vicinity to attract tourists and hotel and convention activity. An exception to the minimum expenditure requirement is provided if the city receives in excess of \$2 million in hotel tax revenues annually, in which case, the city should allocate its revenue by ordinance.

15 Percent Maximum Expenditure for the Arts and 50 Percent Maximum Expenditure for Historical Restoration and Preservation

Cities with a population of less than 125,000 *may not expend more than 15 percent of*

the hotel occupancy tax, or no more than the amount of tax received by the city at the rate of 1 percent of the cost of a room, whichever is greater, on promotion of the arts. Additionally if a city does not allocate any hotel tax money for a convention center, the Tax Code prohibits the city from allocating more than 50 percent of its hotel occupancy tax for historical restoration or preservation projects.

Source: Tax Code Section 351.103 (a) and (c).

Additional Rules for Certain Large Coastal Municipalities (Corpus Christi)

Public Beach Expenditures: The City of Corpus Christi is authorized to use all or any portion of the city hotel occupancy tax toward cleaning and maintaining public beaches from the taxes collected from hotels that are within areas that were annexed by the City of Corpus Christi and were previously subject to the county hotel occupancy tax.

Expenditures from Portion of City Hotel Tax Rate Exceeding 7 percent: The City of Corpus Christi must separately account for all hotel occupancy tax revenue it derives from a city hotel occupancy tax rate that exceeds 7 percent (up to a maximum of 9 percent). The city may use revenue from the portion of the city hotel occupancy tax rate that exceeds 7 percent for acquiring land for a municipally owned convention center; constructing, improving, operating and maintaining the convention center; and paying bonds to finance these activities.

Source: Tax Code Section 351.1055(b) 351.003 (c) and Section 351.107(e).

Special Rules for Medium Sized “Eligible Coastal Municipalities” (Galveston)

A different set of revenue expenditure rules apply for eligible coastal municipalities*, which are defined as a “home-rule municipality that borders the Gulf of Mexico and has a population of less than 80,000.” The Tax Code limits the allocation of local hotel occupancy tax revenue for eligible coastal municipalities in the following ways:

- **Minimum Expenditure for Improvements to Civic Centers, Hotels, Marinas, Golf Courses, Trolleys, and Other Improvements that Attract Tourists:** If the city levies a rate of 7 percent, at least 1 percent of the cost of a room shall be used for the payment of bonds issued to establish, acquire, purchase, construct, or improve public improvements that serve the purpose of attracting visitors and tourists, such as parks, civic centers, auditoriums, coliseums, marinas, cruise ship terminals, hotels, motels, parking facilities, golf courses, trolleys or trolley transportation systems. This 1 percent may also be used for maintenance, improvement, or operation of any of the above facilities. For eligible coastal cities with a 7 percent rate, this requirement mandates dedicating 1/7 of the hotel occupancy tax revenue for items within the above noted purposes.
- **Minimum Expenditure for Matching Funds for Beach Clean-Up:** If the city levies a rate of 6 percent or more, at least 1 percent of the cost of a room shall be used as matching

funds for state funds and other funds available to clean and maintain public beaches. For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on beach clean-up. However, a city may credit any funds it receives from the state hotel occupancy tax for beach clean-up toward meeting this obligation.

- **Minimum 1 Percent Expenditure for Other Beach Related Expenditures:** If the city levies a rate of 5 percent or more, at least **1 percent of the cost of a room** shall be used for beach patrol, lifeguard services, marine water safety, and park law enforcement. For example, if the city levied a 7 percent local hotel occupancy tax, at least 1/7 of the hotel occupancy tax must be spent on the above noted beach related expenditures. However, a city may credit any funds it receives from the state hotel occupancy tax for beach related expenditures toward meeting this obligation.
- **Minimum 3 Percent Expenditure for Advertising and Promotion:** If the city levies a rate of 4 percent or more, at least **3 percent of the cost of a room** shall be used for advertising and promotion. For example, if the city levied a 7 percent local hotel occupancy tax, at least 3/7 of the hotel occupancy tax must be spent on advertising and promotion.

* The listing of Eligible Coastal Municipalities has been updated to only include those cities that have indicated that their boundaries border the Gulf of Mexico.

Source: Tax Code Section 351.001 (3) and Section 351.105.

Special State Funding for Beach Clean-Up (Galveston)

In 1995, the Texas Legislature passed a special statute that dedicates the revenue generated from the state hotel tax at a rate of two percent (one third of the state hotel occupancy tax) from Galveston lodging operators to beach clean-up. In other words, if the 6 percent state hotel tax generates \$300 in state hotel tax proceeds, \$100 is given back to the City of Galveston to use for clean-up of beaches within the City of Galveston.

The implementing legislation that authorizes this funding only applies to an “eligible coastal municipality” that has created a park board of trustees to clean and maintain public beaches. An eligible coastal municipality is defined under state law to be a city that

1. borders on the Gulf of Mexico; and
2. has a population of less than 80,000.

A city is eligible to adopt a park board of trustees for beach clean-up only if it

1. is a home rule city;
2. has over 40,000 population;
3. is under 80,000 in population; and
4. borders the Gulf of Mexico.

According to the State Comptroller's Office, the only Texas city that fits both the definition of an "eligible coastal municipality" and the definition of a city that may adopt a park board of trustees for beach clean-up is Galveston. Accordingly, Galveston receives one-third of the state hotel occupancy taxes collected from Galveston area hoteliers for beach clean-up purposes through a rebate from the Texas Comptroller.

Source: Tax Code § 156.2511

Special State Funding for Beach Clean-Up (Port Aransas and South Padre Island)

Originally enacted in 1999 and amended in 2009, the Texas Legislature passed a special statute (similar to the authority relating to Galveston) that dedicates 1% of the state hotel occupancy tax generated from certain eligible barrier island coastal municipalities to beach clean-up. In other words, if the 6 percent state hotel tax generates \$600 in state hotel tax proceeds, \$100 is given back to the eligible city for beach clean-up or beach erosion response projects.

The implementing legislation for this funding applies only to an eligible barrier island coastal municipality. According to the State Comptroller's Office, the two Texas cities that fit this definition are South Padre Island and Port Aransas. Accordingly, the state provides a rebate to the Cities of South Padre Island and Port Aransas of 1/6 of the state hotel occupancy collected by the State from lodging operators in the respective cities. This rebated amount can be used by each City only for beach clean-up and beach erosion response projects.

Source: Tax Code § 156.2512

Municipal Hotel Occupancy Tax Funding for Coastal Erosion (South Padre Island)

In 2009, the Texas Legislature amended Chapter 351 of the Tax Code to also allow the City of South Padre Island to increase its hotel occupancy tax from 7 percent to 8 ½ percent. This legislation dedicates ½ percent of municipal hotel occupancy tax to coastal erosion Projects. The law dedicates 6 of the 8 ½ percent to advertising and promotion or convention center related purposes. The remaining one percent can be used for any purpose authorized under Tax Code Section 351.101.

Source: Tax Code § 351.003(d); Tax Code § 351.1055.

Special Rules for Medium Sized Home Rule Coastal Cities with Less than 80,000 Population & that Border Bays (Ingleside, Portland, Aransas Pass, La Porte, Seabrook, Port Aransas, Port Lavaca, Rockport, Baytown, Texas City, Palacios)

Home-rule cities that have a population of less than 80,000 and border bays, may use up to 10 percent of the revenue derived from the local hotel occupancy tax for certain special beach related purposes and for tourism related public improvements. Specifically, such cities can use up to 10 percent of the local hotel occupancy tax to clean and maintain publicly owned land that is adjacent to a bay, to mitigate coastal erosion, or to pay for the operation or debt for

certain tourism related public improvements (as defined under Section 351.105 (a) (1) or 351.105 (a) (2). This authority does not apply to eligible coastal municipalities (Galveston and Port Arthur).

If the city uses any of the local hotel occupancy tax for beach maintenance under this authority, it may not reduce the amount of revenue that the city uses for tourism advertising and promotion. In particular, the city's advertising and promotion budget may not be set at an amount that is less than the average amount of revenue used by the city for advertising and promoting during the 36-month period that preceded the city's use of city hotel tax for beach maintenance or tourism related public improvements.

Additionally, the amount that is spent from the hotel occupancy tax for beach maintenance or tourism related public improvements must be matched by the city with the same amount of revenue from a non-hotel occupancy tax source (e.g.; property tax or sales tax or other general fund dollars).

Source: Tax Code Section 351.104, and Section 351.105 (a) (1) and (a) (2)

Special Rules for Small Coastal Municipalities with Population Less than 5,000 Adjacent to a Home-rule City with a Population of 80,000.” (Jamaica Beach)

Coastal cities with a population of less than 5,000 may use all or any portion of the municipal hotel tax revenue it collects to clean or maintain beaches within the city, to provide beach security (defined as beach patrol, lifeguard services, marine water safety and park law enforcement) within the municipality, and to pay for any purpose allowed by Section 351.105 of the Tax Code or Section 1504.001 of the Government Code. The maximum municipal hotel occupancy rate in Jamaica Beach is 9 percent.

Source: Tax Code Section 351.1055 (c), and Section 351.003(c)

Special Rules for the City of Alpine

Minimum Expenditure for Advertising and Promotion: The minimum amount that must be spent on advertising and promotion to attract tourists and convention delegates or registrants to the city or its vicinity by the City of Alpine is 50 percent.

Maximum Expenditure for Arts: Alpine's maximum percentage for the promotion of art is 15 percent of its hotel occupancy tax revenues.

Maximum Expenditure for Historical Restoration and Promotion: Alpine's maximum percentage for historical restoration and promotion of historical projects is 15 percent of its hotel occupancy tax revenues.

Source: Tax Code Section 351.1035.

Delegating the Management of Funded Activities

The governing body of a city may, by written contract, delegate the oversight of programs funded by the hotel occupancy tax. This delegation may be made to a person, another governmental entity, or to a private organization. This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitor bureau. The municipality shall approve the entity's annual budget prior to the delegation and shall require periodic (at least quarterly) expenditure reports.

An entity that is delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue. Such entities are also required to maintain the city hotel occupancy tax revenue in a separate bank account that may not be commingled with any other account. The prohibition against commingling the funds does not appear to apply to individual organizations such as an arts or historical group that receives funding for their individual program but do not oversee the distribution of the funding to other entities.

If a city 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 by phone at (512) 474-2996. Texas city officials can also make such inquiries to the legal staff of the Texas Municipal League at (512) 231-7400. Finally, all entities may make inquiries to the Municipal Affairs Section of the Texas Attorneys General's Office. The Municipal Affairs Division can be reached by phone at (512) 475-4683.

Index

- Administrative costs, 12, 17
- Advertising, solicitations, and promotions that attract tourists and convention delegates to the city, 12
- Agricultural Development Corporations, 5
- Alpine, 24
- Amarillo, 14, 19
- Aransas Pass, 23
- Arlington, 17, 18, 19
- Arts expenditures, 13
- Austin, 9, 17
- Authorized Entities and Procedures, 3
- Baytown, 23
- Brownsville, 14, 19
- Buying a hotel, 9
- Charitable Organization, 5
- City and County Employees, 4, 5
- Collection schedule, 8
- Convention center, 11, 12, 15, 16, 18, 19, 21
- Convention Center funding, 12
- Convention registration, 12
- Corpus Christi, 14, 17, 21
- Dallas, 17, 18, 19
- Delegating the Management of Funded Activities, 25
- Dormitories, 3
- Educational, Charitable, and Religious entities, 5, 6
- El Paso, 17
- Enforcement Authority of a City, 9
- Exemptions from the Tax, 4, 5, 7
- Extraterritorial Jurisdiction (ETJ), 3
- Federal Employees, 6
- Foreign Diplomats, 6
- Fort Worth, 17, 18, 19
- Galveston, 21, 22, 23, 24
- Garland, 17
- Grand Prairie, 19
- Health Facilities Development Corporations, 6
- Historical restoration and preservation, 13, 17, 18, 20
- Hospitals, 3
- Hotel, defined, 3
- Houston, 3, 17, 18
- How the City Receives the Tax, 8
- Ingleside, 23
- Irving, 19, 20
- Jamaica Beach, 24
- La Porte, 23
- Laredo, 14, 19
- Letter of Exemption, 4
- Letter of No Tax Due, 9
- List of activities, 16
- Lubbock, 14, 19
- Meeting space, 3
- Nursing homes, 3
- Open Records, 9
- Palacios, 23
- Pasadena, 19
- Penalties for Failure to Report or Collect the Tax, 8
- Permanent Residents, 6
- Plano, 17
- Population of less than 125,000, 20
- Port Aransas, 23
- Port Arthur, 24
- Port Lavaca, 23
- Portland, 23
- Reimbursement of Hotel for Collection Expenses, 8
- Rockport, 23
- Sales tax, 5, 19, 24
- San Antonio, 3, 17, 18, 19
- Sanitariums, 3
- Seabrook, 23
- Seven percent local hotel tax rate, 16
- Simplified, Basic Hotel Occupancy Tax Exemption Rules, 5
- Sleeping room, 3
- South Padre Island, 23
- Sporting events, 14, 17
- Sports facilities or sports fields, 14, 15
- State Employees, 4, 7
- State officials, 4
- Tax Exemption Certificate, 4
- Texas Attorney General's Office, 4, 12, 13, 17
- Texas City, 23
- Texas Comptroller's Office, 4, 5, 6, 8, 9, 23
- Texas Educational Organizations, 5
- Transportation systems for tourists, 15
- Use of Local Hotel Occupancy Tax Revenues Criteria #2, 11, 16
- Visitor Information Center funding, 12