What Counties Need to Know to Administer Local Hotel Occupancy Taxes

Texas Hotel & Lodging Association

Revised November 2019
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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 utilizes this new allowable use 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. ........................................................................... 28

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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 increased sales taxes, alcohol 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 tax revenues, the local and state economies benefit. In turn, the hotel tax revenues generated from additional room night activity funds future programs and tourism-related facilities, providing an economic engine for 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 taxes are primarily governed by Chapter 352 of the Texas Tax Code. This guide assists local governments, hotel tax 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 eligible 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 1 percent to 7 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 ETJ, the combined state, county, and municipal hotel occupancy tax rate may not exceed 15 percent.⁹

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¹ Source: Office of the Governor of Texas, Economic Development and Tourism.
² Tex. Tax Code Ann. § 352.002(a) (Vernon 2017). 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.
⁹ § 351.0025(b).
In addition to local hotel occupancy taxes, all lodging properties operating in Texas are subject to a six percent state hotel occupancy tax. 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 also goes toward funding tourism promotion through Texas’s marketing campaign, “Let’s Texas.”

**Collecting the Tax**

Under the Texas Tax Code, the following businesses 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. 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. 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. 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. Subject to various exemptions, the hotel tax is 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 tax to apply, and $15 or more per day for the state hotel tax to apply.

**Meeting rooms versus sleeping rooms:**

The rental of sleeping rooms in hotels is subject to both state and local hotel taxes. However, there is a difference in how state and local hotel 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 taxes, meeting room rentals are not subject to local hotel occupancy taxes. The rental of a meeting room or meeting space in a hotel is subject to the state 6 percent hotel occupancy tax, provided the room or space is physically located in a structure that also contains sleeping rooms. 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 that 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.

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. Such sales tax would apply to the meeting room or banquet hall rental costs or charges regardless of whether the food

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10 Tex. Tax Code § 156.051.
12 Tex. Tax Code § 156.001(c).
14 Tex. Tax Code § 156.001.
15 Tex. Tax Code § 156.051(a); § 352.002(a).
16 Id.
18 Id.
or beverage charges are separately stated on the guest’s invoice or receipt.\textsuperscript{20}

\textbf{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 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 tax are rollaway bed charges, pet charges, smoking fees, room damage fees, room safe charges, and late or early checkout fees.\textsuperscript{21} 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.\textsuperscript{22}

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 taxes are not due on charges to guests who 1) cancel more than 30 days before the schedule stay begins, or 2) when the total cancellation charge to the guest is less than the reserved room rate.\textsuperscript{23} This rule applies both to individual reservations and also to group contracts.\textsuperscript{24}

\textbf{Application of local hotel tax rate increases on pre-existing contracts}  
If a county increases its hotel 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 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.\textsuperscript{25} 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.\textsuperscript{26}

\textbf{Exemptions from the Local Hotel Tax}  
Texas law provides certain hotel tax exemptions based on the length of a guest’s stay or the guest’s affiliation with an exempt organization. Texas law is more permissive for exemptions from the state 6\% hotel occupancy tax than it is for local hotel tax exemptions. The state hotel occupancy tax generally allows for an exemption from state hotel tax for the following entities: educational, charitable, and religious entities. However, these entities are not exempt from local hotel occupancy taxes.\textsuperscript{27}

Focusing specifically on the local hotel occupancy taxes, there are primarily four categories of exemptions permitted from municipal and county hotel occupancy taxes:

\textsuperscript{20} Id.
\textsuperscript{21} 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.
\textsuperscript{23} Texas Comptroller’s Hearing Decision No. 24,654 (1989).
\textsuperscript{24} Id.
\textsuperscript{25} Tex. Tax Code § 351.007.
\textsuperscript{26} Id.
\textsuperscript{27} Tex. Tax Code § 156.102.
1) **Federal Employees**: Federal employees traveling on official business;
2) **Diplomats**: Foreign diplomats with a tax exempt card issued by the U.S. Department of State;
3) **High Ranking State Officials**: A very limited number of state officials with a hotel tax exemption card (e.g. heads of state agencies, state legislators and legislative staff, members of state boards and commissions, and state judges); and
4) **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).  

Hotel guests claiming items one through three 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. The tax exemption certificate form is available on the Texas Comptroller’s website at [https://www.comptroller.texas.gov/taxes/hotel/forms/](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 tax exemption. This permanent resident exemption applies to both state and local hotel 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. 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 for the room during this period. 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 notice to a hotel of intent to occupy a guest room for 30 days or longer, no tax is due for any part of a guest’s stay. A signed registration card or confirmed reservation indicating a guest’s intent to occupy a room for 30 days or longer is sufficient written evidence. 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.

If no 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 tax-exempt. However, the guest’s stay becomes automatically 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.

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

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28 § 156.104.
29 Id.
30 § 156.101.
34 § 3.161(b)(2)(A).
35 Id.
or longer, the hotel should refund the collected hotel occupancy taxes for the first thirty days. This protects the hotel from incurring tax liability should the guest check out before staying at least 30 days. The hotel could choose to not collect the hotel 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 guests checks out early.

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, their state agency may later apply for a refund from the state and local government tax offices. The state agency the employee works for is responsible for requesting this refund from the state and local government. However, higher-level state employees and state legislative staff may have a special hotel tax exemption card issued by the Texas Comptroller, and they may be treated as exempt from all hotel taxes if the guest present the hotel tax exemption card and complete an exemption certificate form.

City and County Employees/Officials:
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, counties have no legal authority to authorize additional exemptions from the hotel occupancy tax that are not recognized in the Tax Code. 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. The Texas Comptroller generally requires a letter of tax exemption to accompany a completed hotel 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 exemption will cover individual congregations. 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.

Finally, the Comptroller’s staff has indicated they are willing to exercise some flexibility for lodging properties that accept a tax exemption certificate in good faith from a qualifying religious entity even if the entity may not yet have formally filed for a letter of tax exemption. This, however, should only be relied upon as a last resort, as there is no official report of this position, and auditors are trained to look

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36 §3.163(b).
for definitive documentation. 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 if that entity is paying for the room. Make a copy of the identification item you are relying on and be sure that all such travelers fill out the hotel occupancy tax exemption certificate form.

To simplify the hotel tax exemption issue, THLA publishes a chart that hotels and county governments can utilize to determine when a hotel tax exemption is permitted under state law. (See next page.)
### THLA’s Simplified Hotel Occupancy Tax Exemption Rules

<table>
<thead>
<tr>
<th>TYPE OF BUSINESS REQUESTING EXEMPTION</th>
<th>EXEMPT FROM STATE H.O.T.</th>
<th>EXEMPT FROM LOCAL H.O.T.</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural Development Corporations</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>City &amp; County Employees</td>
<td>Not exempt</td>
<td>Not exempt</td>
<td>Local government employees are not exempt from hotel taxes, even when traveling on official business.</td>
</tr>
<tr>
<td>Charitable Organizations</td>
<td>Depends (see comments to the right)</td>
<td>Not exempt</td>
<td>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.</td>
</tr>
<tr>
<td>Texas Educational Organizations</td>
<td>Yes</td>
<td>Not exempt</td>
<td>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 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 taxes just like their Texas counterparts.</td>
</tr>
<tr>
<td>Electric &amp; Telephone Cooperatives</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Federal Credit Unions</td>
<td>Yes</td>
<td>Yes</td>
<td>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.</td>
</tr>
<tr>
<td>Federal Employees (includes FEMA and Red Cross reimbursed rooms)</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must fill out tax exemption certificate, and Present a valid ID.</td>
</tr>
<tr>
<td>Foreign Diplomats</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must fill out tax exemption certificate, and Guest must present tax exempt card issued by U.S. Department of State.</td>
</tr>
<tr>
<td>TYPE OF BUSINESS REQUESTING EXEMPTION</td>
<td>EXEMPT FROM STATE H.O.T.</td>
<td>EXEMPT FROM LOCAL H.O.T.</td>
<td>COMMENTS</td>
</tr>
<tr>
<td>---------------------------------------</td>
<td>--------------------------</td>
<td>--------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Health Facilities Development Corporations</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Housing Authorities &amp; Finance Corporations</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Pan American Games Olympic Games Local Organizing Committees</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Permanent Residents (30 days or more)</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must notify hotel of their intent to stay 30 or more days at the beginning. 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 tax exemption for their first 30 days of their hotel stay, and any consecutive days thereafter. If stay is interrupted, 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 31st consecutive day of their stay.</td>
</tr>
<tr>
<td>Public Facility Corporation</td>
<td>Yes</td>
<td>Yes</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Regional Education Service Centers</td>
<td>Yes</td>
<td>Not exempt</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>Religious Organizations</td>
<td>Yes</td>
<td>Not exempt</td>
<td>Guest must present Texas Comptroller letter of tax exemption, and Guest must fill out tax exemption certificate.</td>
</tr>
<tr>
<td>High Ranking State Officials with Hotel Tax Exemption Photo ID Card</td>
<td>Yes</td>
<td>Yes</td>
<td>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.</td>
</tr>
<tr>
<td>General State Employees without Special Hotel Tax Exemption Photo ID Card</td>
<td>Not exempt</td>
<td>Not exempt</td>
<td>Guest must pay the state and local hotel tax, and then their state agency may apply for hotel tax reimbursement from the local and state governments through a separate process.</td>
</tr>
</tbody>
</table>
How the County Receives the 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. Although the Texas Comptroller’s Office is not directly involved in the collection of the local hotel occupancy tax, 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 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 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.40

Regardless of the reporting period used, counties often require hotels to include a copy of the hotel’s state hotel 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, 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 a property handles that is not exempt from the local hotel tax, and the amount of meeting room rentals subject solely to the state hotel tax.

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

By order, a county may allow hotel operators to retain up to 1 percent of the amount of hotel occupancy taxes collected as reimbursement for the costs of collecting the tax.41 One should take note that the state statutes do not contain provisions allowing county governments to retain any of the collected tax to cover costs of imposing or collecting the tax. However, counties 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.42

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.43

Interest and delinquency penalties:
A county sets its hotel tax remittance schedule by county resolution. Penalties for failure to remit hotel

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41 Tex. Tax Code § 352.005.
42 § 352.1031(b).
43 § 350.004.
taxes to a county when due follow a specific structure. 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. 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. 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.

**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.

The concurrent state hotel 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 taxes from the hotel. 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. If the information submitted by the county results in the collection of delinquency 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.

Alternatively, a county may request hotel occupancy tax audit information from the Texas Comptroller. However, the county must keep such information confidential, and use the information only for enforcement or administration of the county’s hotel 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.

**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;
- 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.

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44 § 352.004(a) and (b).
45 § 352.004(b).
46 Id.
47 § 352.004(c).
48 See generally § 352.1031(b).
49 § 352.008.
50 Id.
51 Id.
52 § 352.004(d).
53 Id.
54 Id.
The most noteworthy of these remedies is the ability of the county 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 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.\(^{55}\) 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.\(^{56}\)

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.\(^{57}\) The county is required to issue the statement not later than the 60th day after the request.\(^{58}\) 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.\(^{59}\)

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.\(^{60}\) 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.\(^{61}\)

\(^{55}\) § 352.0041.
\(^{56}\) Id.
\(^{57}\) Id.
\(^{58}\) Id.
\(^{59}\) Id.
\(^{60}\) § 352.004(d-1) and (d-2).
\(^{61}\) 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.62 This is based on Tax Code Section 352.1031, that 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).63 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.64 This is based on Tax Code Section 352.1031, that 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.65 Section 351.101 provides a two-part test that every expenditure of local hotel occupancy tax by these counties must meet to be valid.66

Criteria #1: First, every expenditure 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.67 “Tourism” is defined under Texas law as guiding or managing individuals who are traveling to a different, city, county, state, or country.68 A “direct” promotion of the convention and hotel industry has been consistently interpreted by the Texas Attorney General as a program, event, or facility likely to cause increased hotel or convention activity.69 This activity may result from hotel or convention guests

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62 § 352.1031.
63 Id.
64 Id.
65 Id.
66 § 351.101.
67 Id.
68 § 351.001(6).
that are already in town and choose to attend the hotel tax 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 tax funded event or facility.

If the hotel tax 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.\(^7\) However, it is important to note that events and facilities that do not qualify for hotel occupancy tax funding are often still legally eligible for county funding from most of the other funding sources available to the county (general property tax revenues, certain sales tax revenues, franchise fee revenues, etc.). State law is stricter in terms of how the local hotel occupancy tax revenues can be spent.

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.\(^7\) However, communities with successful tourism promotion programs often condition the amount of hotel occupancy tax that is awarded to the proportionate impact of the event or facility on tourism and hotel activity in 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 likely not be eligible for hotel occupancy tax funding.

Finally, it is a good practice to utilize 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 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.

City staff and 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 in their reservation systems, requests for directions, information and transportation to such venues by hotel patrons.

After a hotel tax grant recipient’s event or program is offered for several years, the recipient should have

\(^7\) Id.
\(^7\) See generally Tex. Tax Code §§ 351.101(a), (b).
a reasonable idea as to whether their event or program’s attendance includes a 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 may not be used for general revenue purposes or general governmental operations of a county.72 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, 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 tax for “general governmental operations of a county.”73 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.75

The seven 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.76 A visitor information center may be operated by the county, or by another entity such as a city or a chamber of commerce. If the visitor information center facility 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 can only be covered by local hotel tax to the extent the facility is used for activities related to directly funding hotel activity.

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.77 It also includes parking areas in the immediate vicinity of a 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.78 It does not include facilities that are not of the same general characteristics as the structures listed above.

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73 Id.
74 Id.
75 Id.
76 Tex. Tax Code § 351.101(a).
77 § 351.101(a)(1).
78 § 351.003(2).
79 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.79 “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.80 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.

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 tax.

2) Paying the administrative costs for facilitating convention registration.

This provision allows local hotel tax expenditures for administrative costs that are actually incurred for assisting in the registration of convention delegates or attendees.81 This is generally an expenditure by bigger communities that hold large conventions, and includes covering the personnel costs and costs of materials for the registration of convention delegates or attendee.

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

This provision allows expenditures for solicitations or promotional programs/advertising directly related to attracting tourists and convention delegates to the county or its vicinity.82 Such expenditures are traditionally in the form of internet, newspaper, mail, television, or radio ads; or solicitations to promote an event or facility. The advertising or promotion must directly promote the hotel and convention industry.83 For example, the 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.84

In certain cases, a county 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.85

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79 Id.
80 Id.; see generally Tex. Tax Code §§ 351.101(a), (b).
82 § 351.101(a)(3).
83 § 351.101(b).
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 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; Texas law requires that the arts related expenditure also 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 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 tax laws as they relate to the arts. In order 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 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:

a. Offering Arts Events as Part of a Tourism/Hotel Event: The hotel tax 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 tax funded arts entity can show a direct

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87 Id.
88 § 351.101(b).
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 tax 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 tax funded arts events.

c. Creating or Causing Room Night Activity at Area Hotels: The hotel tax 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 tax funded arts event or facility.

d. Surveying of Attendees at Arts Related Events: The hotel tax 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 tax 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 tax proceeds that can be made available to the arts and other eligible uses.

The percentage of total local hotel tax funds that funding a city may allocate to the arts category is limited by state statute. See the “Special Rules” section of this guide, starting on page 24.

**Attorney General opinion on arts facilities**

In 2017, the Texas Attorney General issued opinion number KP-0131 regarding whether a city can expend hotel 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 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 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 expenditures.89 Based on this reasoning, it seems that the Texas Attorney General holds that funding of a physical structure with local hotel tax revenue must be specifically authorized under some other statutory category of hotel tax expenditures, aside from the general “promotion of the arts” category.

5) **Funding historical restoration or preservation programs.**

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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.\textsuperscript{90} 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.

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.\textsuperscript{91} 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 1 million.**

This section authorizes a county with a population of under 1 million to use local hotel occupancy tax revenue to fund certain expenses, including promotional expenses, directly related to a sporting event.\textsuperscript{92} 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."\textsuperscript{93} The statutory authorization also requires that a majority of the participants in the sporting event also be tourists to the area.\textsuperscript{94}

This category is intended to allow communities to fund the event costs for sporting tournaments that 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 tax 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 tax 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 that are visited frequently by hotel guests in the county.**

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 in the community.\textsuperscript{95}

\textsuperscript{90} § 351.101(a)(5).
\textsuperscript{91} § 351.101(b).
\textsuperscript{92} § 351.101(a)(6).
\textsuperscript{93} Id.
\textsuperscript{94} Id.
\textsuperscript{95} § 351.101(a)(9).
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.\(^{96}\) 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.

With regard to the use of local hotel occupancy taxes, there is no time limit for a county to expend all of 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.\(^{97}\) State law does not address revenues that are earned from events funded by the local hotel occupancy tax.

Administering Hotel Occupancy Tax Revenue Expenditures

Duty of funded entities to provide a list of activities.

All entities (including the county itself) directly or indirectly funded by the local hotel occupancy tax are annually required to provide a list of the scheduled activities, programs, or events that will directly enhance and promote tourism and the convention and hotel industry.\(^{98}\) This list is to be provided annually to the commissioners or their designee prior to the expenditure of the hotel occupancy tax funding by the funded entity.\(^{99}\) 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 tax by hotel tax funded entities would satisfy this requirement if their report addresses the extent to which their events directly promote tourism and hotel activity.\(^{100}\)

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.\(^{101}\) 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.\(^{102}\)

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\(^{96}\) §§ 351.101, 352.1015(e).
\(^{97}\) §§ 351.001(9), (10).
\(^{98}\) §§ 352.109; 352.1015(a) and (b).
\(^{99}\) Id.
\(^{100}\) Id.
\(^{101}\) § 352.1015.
\(^{102}\) Id.
Delegating management of funded activities.

The governing body of a county may delegate the management or supervision of programs funded with hotel occupancy tax revenues by written contract.\textsuperscript{103} This delegation may be made to a person, another governmental entity, or to a private organization.\textsuperscript{104} This delegation is often made to a local arts council, a chamber of commerce, or to the convention and visitors bureau. The county shall approve the entity’s annual budget prior to delegating the management or supervision of hotel tax funded programs.\textsuperscript{105} Furthermore, the county shall require the delegated entity to make periodic reports, at least quarterly, listing the hotel occupancy tax expenditures made by the delegated entity.\textsuperscript{106} 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.\textsuperscript{107}

An entity with delegated authority to manage hotel tax funded programs undertakes a fiduciary duty with respect to the use of the tax revenue.\textsuperscript{108} 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.\textsuperscript{109} 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 funding for their individual program, but do not themselves oversee hotel tax funding to other entities.

Use of hotel occupancy tax revenues to cover administrative expenses.

Texas law allows proceeds of the local hotel occupancy 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 local hotel occupancy tax.\textsuperscript{110} For example, entities that manage activities funded by local hotel tax may spend some of the tax for certain day-to-day operational expenses.\textsuperscript{111} These expenses may include supplies, salaries, office rental, travel expenses, and other administrative costs.\textsuperscript{112} 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 laws.\textsuperscript{113} 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.\textsuperscript{114} For example, 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. 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.\textsuperscript{115} This travel
should facilitate the acquisition of skills and knowledge that will promote tourism and the convention and hotel industry.\textsuperscript{116}

**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:

**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.\textsuperscript{117} The maximum tax rate for Bandera County is 7 percent, and the County is authorized to impose this tax within all of its municipalities.\textsuperscript{118} The County may only expend its hotel occupancy tax 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.\textsuperscript{119}

**Bosque County and Hill County**

Hill and Bosque counties each border Lake Whitney. The maximum rate for these counties is 7\%, but the hotel tax can only be assessed in unincorporated areas of the county.\textsuperscript{120} Revenues must be used for advertising and promoting the unincorporated areas of the county.\textsuperscript{121}

**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 2\% percent, unless a special contract is executed between the Brazos Valley Convention & Visitors Bureau and A&M University.\textsuperscript{122} If the Brazos Valley Convention & Visitors Bureau executes a preferred access agreement for 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.\textsuperscript{123}

\textsuperscript{116} Id.
\textsuperscript{117} §§ 352.002(a)(5), 352.003(a), and 352.1032.
\textsuperscript{118} Id.
\textsuperscript{119} Id.
\textsuperscript{120} §§ 352.002(a) and (d), and 352.1035.
\textsuperscript{121} Id.
\textsuperscript{122} §§ 352.002(a) and (g), 352.003, and 352.1034.
\textsuperscript{123} § 352.003(i-1) and (i-2).
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. The maximum tax rate for these counties is 7 percent, and the tax rate does not apply in areas in which the city hotel occupancy tax is in effect. Cameron and Hidalgo counties may only expend the county hotel occupancy tax for one purpose: bond debt service, construction, maintenance, or operation of a special events facility with a seating capacity of at least 8,000.

Cooke County

Cooke County has a population of less than 100,000 and borders Lake Ray Roberts. The maximum tax rate for Cooke County is 2 percent, and the tax applies throughout the county, regardless if a municipality within the County has a municipal hotel tax. Cooke County can only use its hotel 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.

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 tax rate for most of the Gulf coast counties is 7 percent, except for Willacy County, which is 9 percent. However, Kenedy County’s tax is capped at 4 percent, since Kenedy County is also a county without an incorporated municipality. Additionally, special statutory language restricts...

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124 §§ 352.002(a)(11), 352.003(a), and 352.106.
125 Id.
126 Id.
127 § 352.002(x).
128 § 352.003(u).
129 § 352.113 and § 352.101(a).
130 §§ 352.002(a)(6), 352.002(d), 352.003(e), 352.003(f), 352.003(t) and 352.1033
What Counties Need to Know to Administer Local Hotel Occupancy Taxes

Chambers County to a 3 percent rate, and Jefferson County to a 2 percent rate. 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 tax.

Use of the tax revenue: The applicable rules limit the county to only using its hotel occupancy tax to 1) clean public beaches; 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. These counties may also use 50 percent or less of the tax revenue for the promotion of tourism.

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 tax rate for these counties is 4 percent (Zapata County and Jim Hogg County are authorized to impose up to 7 percent hotel tax). The applicable statutes limit the county to only expending its hotel occupancy tax 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, or 6) limited repairs and improvements of a county-owned airport as described below.

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. 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.

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

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131 Id.
132 Id.
133 Id.
134 Id.
135 §§ 352.002(a)(3), 352.003(c), and 352.103.
136 Id.
137 §§ 352.103(b), 352.103(c), and 352.103(d).
138 Id.
139 Id.
What Counties Need to Know to Administer Local Hotel Occupancy Taxes

do not have three or more cities with a population of more than 17,500. The maximum hotel occupancy tax rate for these counties is 7 percent under the enabling statute, and the County may impose the tax county-wide. 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.

The statutes applicable to El Paso County and Webb County allow the expenditure of the county hotel occupancy tax 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. No more than 15 percent may be spent for arts.

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.

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.

Rate: Within Harris County, the maximum hotel occupancy tax rate depends on whether the hotel is within the limits of the City of Houston or another municipality with a local hotel tax. The county hotel occupancy tax rate is 2 percent for areas of Harris County subject to a municipal hotel occupancy tax, and the rate is 7 percent for all other areas of Harris County.

Use of the revenue: The Tax Code limits Harris County to only expend its hotel occupancy tax 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. This advertising and promotion must be conducted under the authority of

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140 §§ 352.002(a)(2), 352.003(a), and 352.102.
141 Id.
142 Loc. Gov’t Code § 334.254(d).
143 §§ 352.002(a)(2), 352.003(a), and 352.102.
144 § 352.102(b)
145 § 352.002(y).
147 Id.
148 Id.
149 Id.
the City of Houston, and the County must devote not less than 15 percent of the tax at a rate of 1 percent for this purpose. ¹⁵⁰

Orange County

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 utilizes this new allowable use 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. ¹⁵¹

Midland County

Midland County is a county in which “an airport is essential to the economy,” and the airport is considered 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. ¹⁵² The maximum tax rate for Midland County is 1% percent, applicable throughout the county. ¹⁵³ 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. ¹⁵⁴

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 2% hotel occupancy tax only for the purpose of operating and maintaining a coliseum. ¹⁵⁵ This tax applies both inside and outside the city limits (such as Snyder). ¹⁵⁶

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. ¹⁵⁷ The maximum rate for Tyler County is 7 percent. The county hotel occupancy tax does not apply in areas in which the city hotel occupancy tax is in effect.

¹⁵⁰ Id.
¹⁵¹ 352.111(b)
¹⁵² §§ 352.002(a-1), 352.003(h), 352.109(b-1).
¹⁵³ Id.
¹⁵⁴ Id.
¹⁵⁵ § 352.002(h).
¹⁵⁶ Id.
¹⁵⁷ § 352.002(a) and (d).
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.\textsuperscript{158} The maximum tax rate is 7 percent, and the tax does not apply to municipalities within Uvalde County with a hotel occupancy tax.\textsuperscript{159}

Val Verde County

Val Verde County borders the United Mexican States and contains a national recreation area.\textsuperscript{160} The maximum tax rate for Val Verde County is 2 percent for areas of the county subject to a municipal hotel occupancy tax (Del Rio, Texas), and is 7 percent for all other areas of the County.\textsuperscript{161} Val Verde County’s hotel tax revenue may only be used as follows: 75 percent for the promotion of tourism, and 25 percent for general revenue purposes or general governmental operations of the County.\textsuperscript{162}

Wilbarger County

As of 2019, Wilbarger County has the authority to impose a new, county-wide hotel occupancy tax at a maximum rate of 2 percent.\textsuperscript{163}

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 2 percent within the city limit and up to a 7 percent for hotels that are not subject to a city hotel occupancy tax.\textsuperscript{164}

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 4%, the Code contains an exception for Zapata County; the maximum hotel tax rate for Zapata County is 7%.\textsuperscript{165}

\textsuperscript{158} §§ 352.002(a)(15), 352.002(d), and 352.110.
\textsuperscript{159} Id.
\textsuperscript{160} § 352.002(a)(13).
\textsuperscript{161} § 352.003(q).
\textsuperscript{162} § 352.108.
\textsuperscript{163} § 352.002(s).
\textsuperscript{164} §352.003(w).
\textsuperscript{165} § 352.003(c).
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.\textsuperscript{166} 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.\textsuperscript{167}

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.

\textsuperscript{166} § 352.107.
\textsuperscript{167} 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 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 Tax Code

<table>
<thead>
<tr>
<th>County</th>
<th>Statutory Authorization</th>
<th>Max Tax Rate under state law</th>
<th>Statutory Restrictions on Use of Tax Revenue</th>
<th>County Tax Applicable in Cities w/City Hotel Tax?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aransas</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033. May also use revenue for tourism projects such as aquariums and nature activities centers, as per § 352.1033(c).</td>
<td>No</td>
</tr>
<tr>
<td>Bandera</td>
<td>Tax Code § 352.002(a)(5)</td>
<td>7%</td>
<td>Tax Code § 352.1032</td>
<td>Yes</td>
</tr>
<tr>
<td>Bastrop</td>
<td>Tax Code § 352.002(p)</td>
<td>Split rate depending on situs: 0.75% or 7%</td>
<td>Tax Code § 352.003(o)</td>
<td>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.</td>
</tr>
<tr>
<td>Bell</td>
<td>Tax Code § 352.002(n)</td>
<td>2%</td>
<td>Tax Code § 352.1033(a)</td>
<td>Yes</td>
</tr>
<tr>
<td>Borden</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Bosque</td>
<td>Tax Code § 352.002(a)(29)</td>
<td>7%</td>
<td>Tax Code § 352.1035</td>
<td>No</td>
</tr>
<tr>
<td>Brazoria</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Brazos</td>
<td>Tax Code § 352.002(a) and (g)</td>
<td>2% or 2.75% depending on special contract execution.</td>
<td>Tax Code §§ 352.003, 352.1034</td>
<td>Yes</td>
</tr>
<tr>
<td>Brewster</td>
<td>Tax Code § 352.002(a)(14)</td>
<td>7%</td>
<td>Tax Code §§ 352.1031, 352.102(c), 352.003(d)</td>
<td>No. Also, at least 1/3 of tax collected each year must be used in unincorporated areas of the County.</td>
</tr>
<tr>
<td>Burleson</td>
<td>Tax Code § 352.002(a)(24)</td>
<td>2%</td>
<td>Tax Code §§ 352.002(h), 352.003(j)</td>
<td>Yes</td>
</tr>
<tr>
<td>County</td>
<td>Statutory Authorization</td>
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</tr>
<tr>
<td>Burnet</td>
<td>Tax Code § 352.002 (a)(17)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Calhoun</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Cameron</td>
<td>Tax Code § 352.002(a)(6) &amp; (a)(11)</td>
<td>7%</td>
<td>Tax Code § 352.1033 &amp; Tax Code § 352.106</td>
<td>No</td>
</tr>
<tr>
<td>Camp</td>
<td>Tax Code § 352.002(a)(9)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Chambers</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>3%</td>
<td>Tax Code § 352.1033</td>
<td>Yes</td>
</tr>
<tr>
<td>Cooke</td>
<td>Tax Code § 352.002(x)</td>
<td>2%</td>
<td>Tax Code § 352.113; Tax Code § 352.003(u)</td>
<td>Yes</td>
</tr>
<tr>
<td>Crane</td>
<td>Tax Code § 352.002(j)</td>
<td>7%</td>
<td>Tax Code § 352.002(j)</td>
<td>No</td>
</tr>
<tr>
<td>Crockett</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Ector</td>
<td>Tax Code § 352.002(q)</td>
<td>2%</td>
<td>Tax Code § 352.003(r)</td>
<td>Yes. The revenue may only be used for a coliseum and to advertise and promote visitation to the coliseum.</td>
</tr>
<tr>
<td>El Paso</td>
<td>Tax Code § 352.002(a)(2) &amp; (a)(4)</td>
<td>7%</td>
<td>Tax Code § 352.102</td>
<td>Yes, but subject to a maximum cap.</td>
</tr>
<tr>
<td>Franklin</td>
<td>Tax Code § 352.002(a)(23)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Frio</td>
<td>Tax Code § 352.002(t)</td>
<td>7%</td>
<td>Tax Code § 352.002(t)</td>
<td>No</td>
</tr>
<tr>
<td>Galveston</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Gillespie</td>
<td>Tax Code § 352.002 (a) (21)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Glasscock</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Guadalupe</td>
<td>Tax Code § 352.002(y)</td>
<td>7%</td>
<td>Tax Code § 352.1031 &amp; Tax Code § 352.003(v)</td>
<td>Yes (but not New Braunfels), but limited to 2%</td>
</tr>
<tr>
<td>County</td>
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<td>Max Tax Rate under state law</td>
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</tr>
<tr>
<td>Harris</td>
<td>Tax Code § 352.002(a)(1)</td>
<td>7%</td>
<td>Tax Code § 352.101 &amp; Tax Code § 352.105</td>
<td>Yes, but limited to 2% in Houston</td>
</tr>
<tr>
<td>Henderson</td>
<td>Tax Code § 352.002(o)</td>
<td>2%</td>
<td>Tax Code § 352.003(n) &amp; Tax Code § 352.1037. Revenue may only be used to operate and maintain a fairground in the county.</td>
<td>Yes.</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>Tax Code § 352.002(a)(11)</td>
<td>7%</td>
<td>Tax Code § 352.106</td>
<td>No</td>
</tr>
<tr>
<td>Hill</td>
<td>Tax Code § 352.002(a)(29)</td>
<td>7%</td>
<td>Tax Code § 352.1035</td>
<td>No</td>
</tr>
<tr>
<td>Hopkins</td>
<td>Tax Code § 352.002(a)(12)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Houston</td>
<td>Tax Code § 352.002(k)</td>
<td>2%</td>
<td>Tax Code 352.003(m)</td>
<td>Yes</td>
</tr>
<tr>
<td>Hudspeth</td>
<td>Tax Code § 352.002(u)</td>
<td>7%</td>
<td>Tax Code § 352.002(u)</td>
<td>No</td>
</tr>
<tr>
<td>Jack</td>
<td>Tax Code § 352.002(a)(10)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Jackson</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Jeff Davis</td>
<td>Tax Code § 352.002(a)(7)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>Yes</td>
</tr>
<tr>
<td>Jefferson</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>2%</td>
<td>Tax Code § 352.1033</td>
<td>Yes</td>
</tr>
<tr>
<td>Jim Hogg</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Kendall</td>
<td>Tax Code § 352.002(l)</td>
<td>7%</td>
<td>Tax Code § 352.002(l)</td>
<td>No</td>
</tr>
<tr>
<td>Kenedy</td>
<td>Tax Code § 352.002(a)(3) &amp; (a)(6)</td>
<td>4%</td>
<td>Tax Code § 352.103 &amp; Tax Code § 352.1033</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>King</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Kleberg</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Llano</td>
<td>Tax Code § 352.002(a)(22)</td>
<td>7%</td>
<td>Tax Code § 352.002(f); Tax Code § 352.1031</td>
<td>No</td>
</tr>
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## What Counties Need to Know to Administer Local Hotel Occupancy Taxes

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<tr>
<td>Leon</td>
<td>Tax Code § 352.002(a)(26)</td>
<td>2%</td>
<td>Tax Code §§ 352.1031, 352.003(j)</td>
<td>Yes</td>
</tr>
<tr>
<td>Loving</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Madison</td>
<td>Tax Code § 352.002(a)(27)</td>
<td>2%</td>
<td>Tax Code §§ 352.1031, 352.003(j)</td>
<td>Yes</td>
</tr>
<tr>
<td>Matagorda</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Maverick</td>
<td>Tax Code § 352.002(a)(4)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>McMullen</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Midland</td>
<td>Tax Code § 352.002(a-1)</td>
<td>1%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Nueces</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Orange</td>
<td>Tax Code § 352.002(a)(28)</td>
<td>2%</td>
<td>Tax Code §§ 352.1031, 352.003(k), 352.111</td>
<td>Yes</td>
</tr>
<tr>
<td>Palo Pinto</td>
<td>Tax Code § 352.002(a)(10)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Polk</td>
<td>Tax Code § 352.002(a)(4)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
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<tr>
<td>Rains</td>
<td>Tax Code § 352.002(a)(9)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Real</td>
<td>Tax Code § 352.002(a)(16)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Refugio</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Robertson</td>
<td>Tax Code § 352.002(a)(25)</td>
<td>2%</td>
<td>Tax Code §§ 352.1031, 352.003(j)</td>
<td>Yes</td>
</tr>
<tr>
<td>Sabine</td>
<td>Tax Code § 352.002(a)(8)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>San Jacinto</td>
<td>Tax Code § 352.002(a)(20)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>San Patricio</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Scurry</td>
<td>Tax Code § 352.002(h)</td>
<td>2%</td>
<td>Tax Code § 1036</td>
<td>Yes</td>
</tr>
<tr>
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</tr>
<tr>
<td>Somervell</td>
<td>Tax Code § 352.002(a)(9)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Starr</td>
<td>Tax Code § 352.002(a)(18)</td>
<td>2%</td>
<td>Tax Code § 352.003(g); Tax Code § 352.1031</td>
<td>Yes</td>
</tr>
<tr>
<td>Stephens</td>
<td>Tax Code § 352.002(a)(10)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Terrell</td>
<td>Tax Code § 352.002(a)(3)</td>
<td>4%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
<tr>
<td>Trinity</td>
<td>Tax Code § 352.002(a)(19)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Tyler</td>
<td>Tax Code § 352.002(a)(19)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
</tr>
<tr>
<td>Uvalde</td>
<td>Tax Code § 352.002(a)(15)</td>
<td>7%</td>
<td>Tax Code §§ 352.002(d), 352.1031, 352.110</td>
<td>No</td>
</tr>
<tr>
<td>Val Verde</td>
<td>Tax Code § 352.002(a)(13)</td>
<td>Split rate depending on situs: 2% or 7%</td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td>Victoria</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>7%</td>
<td>Tax Code § 352.1033</td>
<td>No</td>
</tr>
<tr>
<td>Washington</td>
<td>Tax Code § 352.002(i)</td>
<td>7%</td>
<td>Tax Code § 352.002(i)</td>
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<tr>
<td>Webb</td>
<td>Tax Code § 352.002(a)(2)</td>
<td>7%</td>
<td>Tax Code § 352.102</td>
<td>Yes</td>
</tr>
<tr>
<td>Wilbarger</td>
<td>Tax Code § 352.002(s)</td>
<td>2%</td>
<td>Tax Code § 352.1031</td>
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<tr>
<td>Willacy</td>
<td>Tax Code § 352.002(a)(6)</td>
<td>9%</td>
<td>Tax Code § 352.1033</td>
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</tr>
<tr>
<td>County</td>
<td>Statutory Authorization</td>
<td>Max Tax Rate under state law</td>
<td>Statutory Restrictions on Use of Tax Revenue</td>
<td>County Tax Applicable in Cities w/City Hotel Tax?</td>
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<tr>
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<tr>
<td>Wilson</td>
<td>Tax Code § 352.002(z)</td>
<td>Split rate depending on situs: 2% or 7%</td>
<td>Tax Code § 352.1031</td>
<td>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.</td>
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<tr>
<td>Wood</td>
<td>Tax Code § 352.002(a)(12)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>Yes</td>
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<tr>
<td>Young</td>
<td>Tax Code § 352.002(a)(10)</td>
<td>7%</td>
<td>Tax Code § 352.1031</td>
<td>No</td>
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<tr>
<td>Zapata</td>
<td>Tax Code § 352.003(c)</td>
<td>7%</td>
<td>Tax Code § 352.103</td>
<td>N/A (no municipalities)</td>
</tr>
</tbody>
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Texas Hotel & Lodging Association, 2019
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<th>County</th>
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<td>Texas Educational Organizations</td>
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<td>3, 28</td>
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<td>Use of Local Hotel Occupancy Tax Revenues Criteria #2, 17, 22</td>
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<td>Val Verde County</td>
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<td>Victoria</td>
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<td>Visitor Information Center funding</td>
<td>17</td>
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<tr>
<td>Webb County</td>
<td>2, 26, 27</td>
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<tr>
<td>Willacy</td>
<td>2, 25, 36</td>
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<tr>
<td>Zapata</td>
<td>2, 3, 26, 29, 37</td>
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