

Introduction

This information is provided to all hotels/motels/bed & breakfasts (hereinafter referred to as “hotels”) in the city of Dallas to explain the rules for the administration of Hotel Occupancy Tax, including collection, reporting requirements and exemptions.

Many groups will advise you of their not-for-profit status and expect to be exempted from hotel occupancy taxes. **Not-for-profit status does not automatically qualify an entity for hotel tax exemptions.** Examples of these types of groups include chambers of commerce, trade associations such as the Texas Hotel & Motel Association, and athletic teams such as Little League.

The City of Dallas urges you to read and adhere to the enclosed material carefully; failure to do so may result in tax liabilities, including penalty and interest, on the part of your hotel. If you have questions about the exempt status of a group or a customer, please call Becky Balsamo at (214) 670-4540.

**ADMINISTRATION OF HOTEL OCCUPANCY TAX
CITY OF DALLAS**

**I. HOTEL OCCUPANCY TAX REPORTING AND PAYMENT
REQUIREMENTS**

Hotels are required to collect Hotel Occupancy Tax for the City of Dallas and report and pay Hotel Occupancy Tax to the City of Dallas by the 15th of the month following the month in which the tax was collected.

A. Tax Requirement

(See Chapter 44, Article V, "Hotel Occupancy Tax", Sections 44-36 and 44-37, and Article VII, "Additional Hotel Occupancy Tax", Sections 44-52 and 44-53)

Every person required to collect Hotel Occupancy Tax shall file a report showing:

- 1) the consideration paid for all occupancies in the preceding month;
- 2) the amount of the tax collected on the occupancies; and
- 3) the gross tax due to the City

B. Registration Requirement

Every hotel is required to have a registration form on file with the City of Dallas. If the establishment is sold or has a name change, a hotel is required to provide the City of Dallas with a new or updated registration form.

C. Amount of and Basis for Tax

(See Chapter 44, Article V, "Hotel Occupancy Tax", Section 44-35 and Article VII, "Additional Hotel Occupancy Tax", Section 44-49)

Hotel Occupancy Tax for the City of Dallas is equal to nine percent (9%) of the consideration paid by the occupant to the hotel and shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying the room or space for occupancy, and shall not include any tax imposed by other governmental agencies. Taxes are levied upon occupants in a hotel room that is ordinarily used for sleeping and the cost of occupancy is two dollars (\$2.00) or more. The Hotel Occupancy Tax is broken down as follows:

State of Texas (to be remitted to the <u>State</u>)	6%
City of Dallas (to be remitted to the <u>City</u>)	7%
City of Dallas – Sports Arena Project (to be remitted to the <u>City</u>)	<u>2%</u>
Total (6% to the <u>State</u> and 9% to the <u>City</u>)	15%

D. Completion of Reports

Pre-printed reports are mailed to each hotel by the City each month; however, a report is due from the hotel whether or not a pre-printed report is received by the hotel. If you do not receive a pre-printed form for any month, please use a blank form to report your taxes.

The Hotel Occupancy Tax Report must be filled out completely and signed. If the report is not filled out completely and signed, it will be considered an incomplete report and returned to the owner. Penalties and interest will continue to accrue until the report is filled out completely and returned to the City of Dallas.

E. Reporting Due Dates

(See Chapter 44, Article V, "Hotel Occupancy Tax", Section 44-37 and Article VII, "Additional Hotel Occupancy Tax", Section 44-53)

Hotel Occupancy Tax **reports and payments** are **due** to the City of Dallas **by the 15th** day of the month following the month in which the tax is collected. *(Example: Tax reports and payments for collections made in May, 2002, are due to the City by June 15, 2002.)*

- 1) A one percent (1%) discount can be taken by the hotel if taxes are paid by the 15th of each month.
- 2) If the 15th falls on a weekend or holiday, taxes are due on the following business day.
- 3) A penalty is assessed on the 26th day of each month.
- 4) Ten percent (10%) annual interest begins 30 days after the due date.
- 5) Inter-office metered mail is not considered the date of postmark; the official postmark date is the date given at the postal service center.
- 6) The City of Dallas honors all pick up dates for UPS/Federal Express/US Postal Service, as well as other widely recognized postal services.

F. Reporting Violations

(See Chapter 44, Article V, "Hotel Occupancy Tax", Section 44-39 and Article VII, "Additional Hotel Occupancy Tax", Section 44-56)

The controlling party of a hotel violates the ordinance and is subject to a **fine** not to exceed **\$500** if that person:

- 1) fails to collect the tax;
- 2) fails to file a report as required;
- 3) fails to pay the City the tax when payment is due; or
- 4) files a false report

G. Certificate of Paid Hotel Occupancy Taxes

(See Chapter 44, Article V, "Hotel Occupancy Tax", Section 44-37.1 and Article VII, "Additional Hotel Occupancy Tax", Section 44-54)

Prior to the sale of a hotel, a Certificate of Paid Hotel Occupancy Taxes can be obtained from the City of Dallas. If the buyer has not obtained this certificate, he becomes responsible for any and all unpaid taxes.

II. HOTEL OCCUPANCY TAX EXEMPTIONS

(See Chapter 44, Article V, "Hotel Occupancy Tax", Section 44-35.1 and Article VII, "Additional Hotel Occupancy Tax", Section 44-51)

Section A examines the conflicts between state statutes and current law relating to federal government employee exemptions. Sections B through J relate to all other types of hotel tax exemptions.

A. FEDERAL GOVERNMENT EMPLOYEES

FEDERAL GOVERNMENT EMPLOYEES TRAVELING ON OFFICIAL BUSINESS

There is often confusion about who is legally exempt from state and city hotel occupancy taxes. This confusion derives from a 1996 court decision, which overturned a portion of the state hotel tax law relating to federal government employees traveling on business. The law passed in 1995 eliminated the exemption from state, county, and city hotel taxes on federal government employees traveling on official business.

In 1996, the court ruled that to require federal government employees to pay the tax was unconstitutional because states, under law, may not tax the federal government. The court ruling, however, was very narrow and included only the state hotel tax, not county or municipal hotel taxes.

In July of 1996, the Comptroller of Public Accounts for the State of Texas advised city and county governments that, while the court decision did not address county and city hotel taxes, it was reasonable to assume that if another court case to review county and city hotel tax exemptions denied to federal government employees traveling on business was filed, the court would rule that the exemption must be authorized. As a result, today, all counties and cities are granting the exemption to federal government employees traveling on business.

Therefore, those hotel personnel who read the statutes relating to hotel tax exemptions will discover that the statutes differ from what has been articulated above. However, the court ruling supersedes the statutes. The Texas Legislature has not passed a bill that reflects the court ruling, and, therein lies the confusion. **All federal government employees traveling on government business should be exempt from all hotel occupancy taxes.** Any individual or group receiving a hotel tax exemption must submit a Texas Hotel Occupancy Tax Exemption

Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be liable for not having collected the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

Contractors working for the federal government are not exempt.

B. STATE GOVERNMENT EMPLOYEES

TEXAS STATE GOVERNMENT EMPLOYEES (NOT INCLUDING STATE EMPLOYEES WHO ARE STAYING 30 DAYS OR LONGER OR EDUCATION EMPLOYEES)

The only Texas State government employees exempt from the state and local hotel occupancy taxes are those who have been issued one of two types of exemption cards. One of these cards is a special State Hotel Exemption Photo ID Card. The other card does not have a photo ID, but states “when presented with a photo identification card issued by a Texas agency, the holder of this card is exempt from state, municipal, and county hotel occupancy tax, Tax Code Sec. 156.103(d)”, or similar wording.

Texas State government employees who use the special Hotel Tax Exemption Photo ID exempt card must submit a Texas Hotel Occupancy Tax Exemption Certificate, or the hotel may be held liable for not collecting the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

All other Texas State government employees (excluding those who stay 30 days or longer or those with educational organizations – exempt from state hotel occupancy taxes only) must pay the hotel occupancy tax. If appropriate, the state and local governments will then reimburse the state employer through a separate process, in which the hotel is not involved.

Contractors working for the state government are also not exempt.

C. FOREIGN DIPLOMATS

Foreign diplomats holding a tax exemption card issued by the United States Department of State Office of Foreign Missions are exempt from all hotel occupancy taxes. They must, however, complete the Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be liable for not collecting the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

D. EDUCATIONAL ORGANIZATIONS

Educational organizations include independent school districts, public or private elementary and secondary schools, public or private colleges and universities,

junior colleges, technical institutes, and medical or dental schools of Texas and other states.

Some educational organizations of Texas and other states are exempt from state hotel occupancy tax but **are required to pay city and county hotel occupancy taxes**. In March, 2002, the Comptroller announced that it interpreted state law to allow the staff of out-of-state higher educational entities to be treated as exempt from the state hotel occupancy tax, effective September 1, 2001. Prior to this change in position, only Texas higher educational entities were exempt from the state hotel occupancy tax. However, beginning October 1, 2003, non-Texas institutions of higher education were no longer exempt from state hotel occupancy tax.

Any individual or group receiving a hotel occupancy tax exemption must submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be liable for not collecting the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

The hotel tax exemption for educational organizations is to be granted only to individuals employed by the educational organization unless the hotel bill for non-employees is being paid directly by the educational organization. If the employee is being reimbursed by the educational institution, the employee may pay by personal check, credit card or cash.

E. RELIGIOUS ORGANIZATIONS

Religious organizations are groups formally organized and operated with the primary purpose of engaging in religious worship.

Religious organizations must pay city and county hotel occupancy taxes.

In order for a religious organization to be exempt from the state hotel occupancy tax, it must first have received a letter of certification from the Comptroller of Public Accounts of the State of Texas. Sales tax exemption certificates are not applicable to hotel occupancy taxes. Religious organizations will be required to submit written proof before the Comptroller issues an exemption certificate. For more information about the letter of certification, call the State of Texas at 1-800-252-1385.

Any religious organization receiving a hotel occupancy tax exemption must present its letter of exemption from the Comptroller and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

The hotel tax exemption for religious organizations is to be granted only to individuals employed by the religious organization unless the hotel bill for non-employees is being paid directly by the religious organization. If the employee is being reimbursed by the religious organization, the employee may pay by personal check, credit card, or cash.

F. CHARITABLE ORGANIZATIONS

Charitable organizations are groups formed to alleviate poverty, disease, pain, and suffering by providing food, medicine, or other help to persons in need.

Charitable organizations must pay city and county hotel occupancy taxes.

In order for a charitable organization to be exempt from the state hotel occupancy tax, it must first have received a letter of certification from the Comptroller of Public Accounts of the State of Texas. Sales tax exemption certificates are not applicable to hotel occupancy taxes. Charitable organizations will be required to submit written proof before the Comptroller issues an exemption certificate. For more information about the letter of certification, call the State of Texas at 1-800-252-1385.

Any charitable organization receiving a hotel occupancy tax exemption must present to the hotel its letter of exemption from the Comptroller and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax. Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

The hotel tax exemption for charitable organizations is to be granted only to individuals employed by the charitable organization unless the hotel bill for non-employees is being paid directly by the charitable organization. If the employee is being reimbursed by the charitable organization, the employee may pay by personal check, credit card, or cash.

G. PERMANENT GUESTS (30 DAY RULE)

Guests who notify the hotel of their intent to stay 30 or more consecutive days shall be exempt from all hotel occupancy taxes from the beginning of their stay, provided there is no interruption in payment for the room. An interruption in payment occurs when there is a break in the consecutive days that a person is either staying in the room or is obligated to pay for the rental of the room. For example, if a guest checks out on the 39th consecutive day of a stay and is no longer obligated to pay for the room, the guest must re-qualify for the permanent resident exemption upon return to the hotel. Guests who do not advise the hotel, upon arrival, that they intend to stay 30 consecutive days must pay the tax for the first 30 days. Thereafter, the guest will be exempt, provided there is no interruption in payment for the room. For example, if a guest on the 15th day of occupancy advises the hotel that he wishes to extend his stay for an additional 30

days, the first 15 days will be taxable, and the next 30 days will be exempt, provided there is no interruption in payment for the room.

Unless the property has a contract with a company for payment of hotel bills, hotels may wish to post hotel occupancy taxes on the folio for the first 30 days of a guest's stay, then adjust the taxes off on day 31. If a guest checks out 28 days after registration, and hotel occupancy taxes have not been posted or collected, the hotel will be liable for the tax.

H. CITY AND COUNTY EMPLOYEES

City and county officials must pay all hotel occupancy taxes at the point of sale.

I. EXEMPTION CERTIFICATES

Any individual or organization granted an exemption from any hotel occupancy tax must present a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff). Hotels are required to retain these certificates in order to verify legitimate exemptions when audited by a government agency.

J. MISCELLANEOUS

The entities formed under the following laws are entitled to exemption from both the state and local portions of the hotel occupancy tax. They are listed below with the wording from the statutes that led to granting of the hotel occupancy tax exemption:

- **Electric cooperatives formed under the Electric Cooperative Corporation Act** (Utility Code Section 161.062, previously Article 1528b, V.A.C.S.) **are exempt from** all excise taxes, which include the state and **local hotel occupancy tax. Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.
- **Telephone cooperatives formed under the Telephone Cooperative Corporation Act** (Utility Code Section 162.062, previously Article 1528c, V.A.C.S.) **are exempt from** all excise taxes, which include the state and **local hotel occupancy tax. Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.
- **Housing Finance Corporations** (Local Government Code Section 394.905), all property owned by it, the income from the property, all bonds issued by it, the income from the bonds, and the transfer of the bonds **are exempt**, as public property used for public purposes, **from** license fees, recording fees, and all other

- taxes, including the state and **local hotel occupancy tax**, imposed by this state or any political subdivision of this state. **Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.
- **Housing Authorities** (Local Government Code Section 392.005(a)) and the authority's property **are exempt from** all taxes and special assessments of a municipality, a county, another political subdivision, or the state, including the state and **local hotel occupancy tax**. **Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.
 - **Health Facilities Development Corporations** (Health and Safety Code Section 221.033(c)) that are engaged exclusively in the performance of charitable functions **are exempt from** taxation by the state, a municipality, or other political subdivision of the state, including the state and **local hotel occupancy tax**. **Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.
 - **Public Facility Corporations** (Article 717s, Section 4.042(c)) engaged exclusively in performance of charitable functions **are exempt from** taxation by the state, a municipality, or other political subdivision of the state, including the state and **local hotel occupancy tax**. **Individuals** receiving a hotel occupancy tax exemption **must present to the hotel its letter of exemption from the Comptroller** and submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.

Exempt from state tax only:

- SB 456 in the 76th Legislature exempted from state hotel occupancy tax local organizing committees for the 2007 Pan American Games (San Antonio) and 2012 Olympic Games (Dallas & Houston). The committee must have been issued a 501(c) 3 letter exempting them from payment of federal income tax and must submit to the hotel a Texas Hotel Occupancy Tax Exemption Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be liable for not collecting the tax.
- Regional Educational Service Centers (Section 8.005, Education Code) are exempted from tax in the same manner as independent school districts (effective May, 1997, Acts of the 75th Legislature). Individuals receiving a hotel occupancy tax exemption must present to the hotel its letter of exemption from the Comptroller and submit to the hotel a Texas Hotel Occupancy Tax Exemption

Certificate (which may be given to the guest by the hotel's front desk staff), or the hotel may be held liable for not collecting the tax.

Attachment #1 is a matrix of the basic hotel occupancy tax exemption rules.

Attachment #1
SIMPLIFIED, BASIC HOTEL OCCUPANCY TAX EXEMPTION RULES

TYPE OF ENTITY REQUESTING EXEMPTION	EXEMPT FROM STATE OCCUPANCY TAX	EXEMPT FROM LOCAL OCCUPANCY TAX	COMMENTS
City & County Employees	No	No	
Charitable Organizations	Yes	No	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Electric & Telephone Cooperatives	Yes	Yes	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Elementary & Secondary Educational Organizations (Public & Private Elementary and Secondary Schools and Independent School Districts in Texas and other states and countries)	Yes	No	Guest must fill out tax exemption certificate.
Federal Employees	Yes	Yes	Guest must fill out tax exemption certificate.
Foreign Diplomats	Yes	Yes	Guest must present tax exempt card issued by U.S. Department of State. Guest must fill out tax exemption certificate.
Health Facilities Development Corporations	Yes	Yes	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Housing Authorities & Finance Corporations	Yes	Yes	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Pan American Games 2007/ Olympic Games 2012 Local Organizing Committees	Yes	No	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Permanent Residents (30 days or more)	Yes	Yes	Guest must notify of intent to stay 30 or more days. If stay is interrupted, occupancy taxes must be paid.

Attachment #1
SIMPLIFIED, BASIC HOTEL OCCUPANCY TAX EXEMPTION RULES

TYPE OF ENTITY REQUESTING EXEMPTION	EXEMPT FROM STATE OCCUPANCY TAX	EXEMPT FROM LOCAL OCCUPANCY TAX	COMMENTS
Public & Private Universities & Junior Colleges in Texas	Yes	No	Guest must fill out tax exemption certificate.
Public & Private Universities & Junior Colleges outside the State of Texas	No	No	
Public Facility Corporation	Yes	Yes	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
Regional Education Service Centers	Yes	No	Guest must fill out tax exemption certificate.
Religious Organizations	Yes	No	Guest must present Comptroller letter of exemption. Guest must fill out tax exemption certificate.
State Employees with Photo ID Hotel Tax Exemption Card	Yes	Yes	Guest must present state photo ID card that specifically notes that employee is exempt from hotel occupancy tax. Guest must fill out tax exemption certificate.
State Employees without Photo ID Hotel Tax Exemption Card	No	No	Guest must pay the tax, and the state and local governments will then reimburse the state employer through a separate process.