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The Hotel Occupancy Tax A Short History of a Complex Levy

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When booking lodging in Texas, you're often spoiled for choice — lots of beds at lots of different prices. But however much you spend, you're also contributing to the state and local governments by paying combined hotel occupancy taxes of anywhere from 6 to 17.5 percent, depending on where you stay.



Photo courtesy of Galveston Island Convention and Visitor's Bureau

The state's HOT tax, as it's often called, has been around since 1959, when the Texas Legislature enacted a 3 percent hotel occupancy tax. Two rate hikes by lawmakers in the 1980s brought it to the present

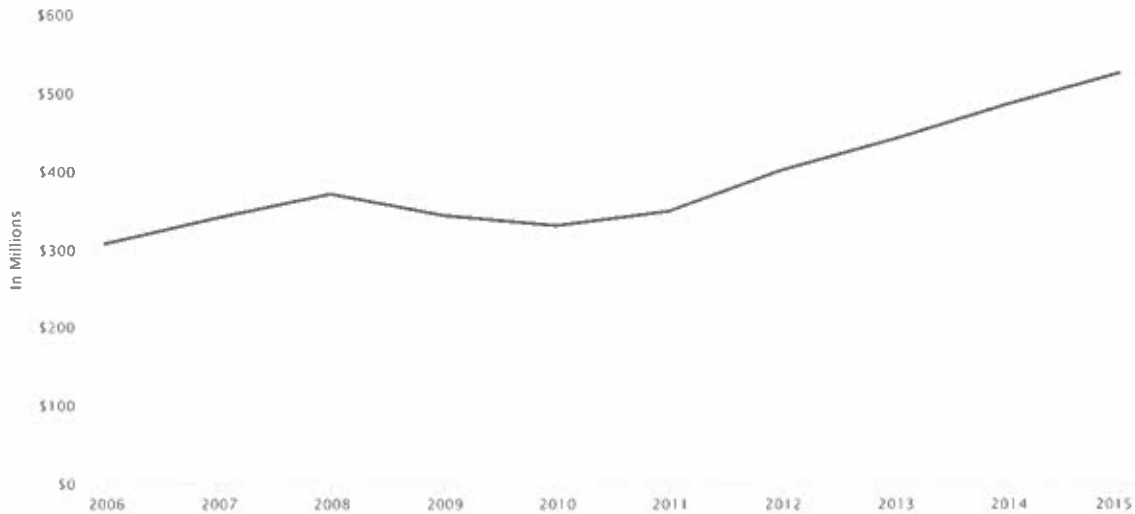
state rate of 6 percent.

In fiscal 2015, the state collected almost \$526 million in state hotel occupancy taxes (**Exhibit 1**). The state’s General Revenue Fund receives nearly 92 percent of this revenue, with the remainder allocated to a state Economic Development Account that supports the tourism advertising and marketing activities of the Texas Governor’s Economic Development and Tourism office.

EXHIBIT 1: TEXAS STATE HOTEL OCCUPANCY TAX COLLECTIONS, FISCAL 2006 - 2015

Roll over the chart for specific values.

[View Data.](#)



Source: Texas Comptroller of Public Accounts

In the early 1970s, the Legislature authorized municipalities to collect the first local hotel occupancy taxes in Texas. In 1981, the Legislature began permitting some counties to levy their own HOT taxes; legislation in the intervening years has increased the number of eligible counties to about 70.

And in 1997, the Legislature offered hotel occupancy taxing authority as one of several revenue options to support sports and community venues, to be levied by a city, county or a partnership between the two. Houston and Harris County, for example, created the Harris County – Houston Sports Authority in 1997 to support the Houston Astros baseball stadium, now called Minute Maid Park. Today, Texas cities and some counties may establish up to a 2 percent hotel occupancy tax to support a venue, if approved by public referendum.

Over the years, the Legislature has authorized the return of a portion of the state HOT tax collected in six communities — Corpus Christi, Galveston, Port Aransas, Quintana, South Padre Island and Surfside Beach — to clean and maintain public beaches and shorelines within those municipalities.

In addition, various amendments to state law have permitted temporary state tax rebates to fund convention centers and related hotel facilities. The most recent was in 2015, when the Legislature amended the law to allow state tax rebates to six cities — El Paso, Frisco, Nacogdoches, Odessa, Round Rock and Tyler — to repay bond debt for a hotel project built within 1,000 feet of a convention facility. Ten cities were already eligible for these rebates.

The 2015 rebates weren't passed without controversy. During a boisterous debate in the 2015 legislative session, opponents criticized the Legislature's selective action in permitting HOT tax rebates for some cities but not others. Lawmakers on both sides of the issue proposed granting the rebate to many more cities — including some that weren't even *considering* developing a hotel convention center — to ensure their home areas weren't left out. The additional rebates didn't pass, however, and the legislators opposing them made their disapproval loud and clear.

Local HOT Uses

Under Texas law, local HOT revenue can be used only to directly promote tourism and the convention/hotel industry. This means the proceeds should be spent on projects or events that result in visitors or attendees staying overnight in the community, generating more hotel occupancy tax. The Texas Municipal League describes this as the first part of a two-part test it calls the hotel tax "two-step."

Provided the first test of directly promoting tourism and hotel activity is met, the expenditure then must fit into one of the categories authorized by statute. According to the Comptroller's Data Analysis & Transparency Division, these categories include:

- the construction, maintenance and operation of a convention or visitor center;
- facilities and personnel for the registration of convention delegates;
- advertising and promotional programs to attract tourists;
- encouragement and promotion of the arts;
- historical restoration and preservation projects;
- advertising to encourage tourists to visit historic sites and museums;
- signage directing the public to sights and attractions frequently visited by tourists;
- certain transportation systems serving tourists and hotel guests;
- and, for certain cities,
- sporting events for which the majority of participants come from out of town;
- qualifying sports facilities that routinely host regional or national tournaments; and
- coliseums or multiuse facilities.

What You Pay When You Stay

Determining the amount you pay in hotel occupancy tax is simple for locations with state HOT tax only — with few exceptions, a room costing at least \$15 per night is subject to a 6 percent state tax anywhere in Texas. (Local hotel taxes are levied on room nights costing at least \$2.) The state and any applicable

local tax is due on stays of no more than 30 consecutive days, unless the stay qualifies for another type of hotel tax exemption, such as that given to federal employees on official business.

The Legislature has authorized local HOT levies in piecemeal fashion, however, often through complex descriptions applying only to specific communities. Taxes may be due to the state and as many as three separate local jurisdictions collecting under the authority of different Tax Code and Local Government Code statutes.

In spring 2016, for instance, the authors priced a \$188 room for a single midweek night in downtown Austin, a few blocks from the state Capitol. Hotel occupancy taxes of about \$28 were tacked onto the bill, including 6 percent to the state, 7 percent to the city of Austin and another 2 percent supporting the Austin Convention Center.

Maximum HOT Rates

Texas law for county hotel tax rates (Texas Tax Code 352) has been amended 29 times. Current law sets the cap for county HOTs at between 0.75 percent and 9 percent, depending on factors such as the county's population, the population of cities within its borders and geographical features such as proximity to Mexico, the Gulf of Mexico, the Neches River or a national park.

The statute governing the maximum city hotel tax rate (Texas Tax Code 351) has been amended 11 times, and currently caps the tax at 7 percent, 8.5 percent or 9 percent, depending on factors such as the city's population and its proximity to the Gulf of Mexico, the state of Louisiana, Lake Palestine or a coastal barrier island.

The maximum tax rate for cities and counties levying a tax for sports and community venues (Texas Local Government Code 334 and 335) is 2 percent (or 3 percent for Dallas County only).

In 2013, the Legislature established a maximum cap of 17 percent for all state and local HOT taxes. El Paso's local taxes, however, were put in place before the Legislature established the combined cap; its city and venue taxes total 9 percent combined, on top of a 2.5 percent county tax and the 6 percent state tax, for a total of 17.5 percent.

Comptroller's Local HOT Survey

Unfortunately, again due to the piecemeal implementation of hotel occupancy taxes across Texas, there is no comprehensive list of local rates, or even of jurisdictions levying the tax. In fact, not every county is permitted by law to levy the tax. To determine the local rate at any location, the most practical course may be to check with the establishment where you plan to stay.

At present, it appears that about a third of eligible Texas cities, counties and special-purpose districts levy and collect local HOT taxes. To learn more, in early 2016 the Comptroller's office surveyed a number of Texas local governments on their use of hotel taxes. (See the survey results in detail [comptroller.texas.gov/taxes/hotel/].)

Of 1,314 cities and 254 counties in Texas, 358 cities and 57 counties responded to the Comptroller survey (27.2 percent and 22.4 percent, respectively).

Among the survey participants, 61 percent of cities and 28 percent of counties levy a hotel occupancy tax. In their most recent fiscal year, survey respondents reported these entities collected a combined \$135.9 million. Many of the largest cities and counties did not submit data for the survey, however, so it's fair to assume that local HOT taxes bring in significantly more.

Of the 358 Texas cities responding to the Comptroller survey, 217 levy hotel tax (**Exhibit 2**) and collected \$126.3 million in their most recent fiscal year. Most of the responding cities (84 percent) collect the maximum allowable tax rate of 7 percent or, in three cases, 9 percent.

Just 16 of 57 counties responding to the survey levy the hotel tax, collecting \$9.7 million in their most recent fiscal year (**Exhibit 3**). In many cases, the 17 percent cap placed on combined HOT levies prevents counties from collecting the maximum statutory tax rate because of overlapping boundaries with cities. Half of the responding counties levying the tax collect 2 percent.

EXHIBIT 2: COMPTROLLER SURVEY - TEXAS MUNICIPAL HOTEL OCCUPANCY TAXATION

Tax Rate	Number of Responding Cities
9%	3
8%	0
7%	183
6%	10
5%	7
4%	11
3%	2
2%	1
1%	0
No tax	141

Note: 358 cities responded to the survey.

Source: Texas Comptroller of Public Accounts

EXHIBIT 3: COMPTROLLER SURVEY - TEXAS COUNTY HOTEL OCCUPANCY TAXATION

Tax Rate	Number of Responding Counties
9%	1
8%	0
7%	3
6%	0
5%	0
4%	3
3%	0
2.5%	1
2%	8
1%	0
No tax	41

Note: 57 counties responded to the survey.

Source: Texas Comptroller of Public Accounts

Other findings include:

- among survey respondents, 39 percent of HOT revenue is allocated to advertising and promotion; 3 percent for historical preservation; 5 percent for arts and heritage purposes; and 21 percent for other purposes, including the operation of visitor centers and event facilities.
- four entities responding to the survey — Brazos County and the cities of Arlington, El Paso and McAllen — collect both a city or county HOT tax and a separate HOT tax for sports and community venues.
- more than half of survey respondents that collect the tax — 124 cities and eight counties — collect between \$10,000 and \$500,000 annually from hotel taxes; the median for all respondents was \$104,256.

Local Taxes for Local Needs

The complexity of hotel occupancy taxation reflects its development over time to suit specific community needs. That's why the hotel tax on your bill for a weekend trip to Padre Island, a college football game in El Paso or a rodeo in Bandera can be vastly different.

Local governments levying the 9 percent tax rate — the highest available by law — mostly use it to support more than one venue or project, or to maintain public land on the Gulf of Mexico. Four jurisdictions participating in the survey collect the tax at 9 percent:

- the city of *Fort Worth* collects a 9 percent HOT tax. Seven percent is used for operations including the Fort Worth Convention Center, the Fort Worth Convention and Visitors Bureau and the Will

Rogers Memorial Center, while an additional 2 percent levied since 1997 is used to support debt service on bonds used to expand and improve the convention center.

- the city of *Groesbeck* adopted a 9 percent tax in 2009, which includes a 2 percent venue tax for a civic center.
- in 2003, the city of *Jamaica Beach* on Galveston Island increased its 7 percent hotel occupancy tax to 9 percent, and expanded a narrower 1998 ordinance to allow all uses of the funds permitted under state law, including beach tourism, construction and operation of a community pool and a potential project to build a recreation center.
- *Willacy County*, which includes a section of Padre Island, collects 9 percent to cover the cost of beach maintenance; the rate was increased by 1 percent every two years from an initial 4 percent levy in 2005.

Around the State

Brazos County collects a 2 percent venue tax for its Brazos Valley Fair and Exposition complex, and in 2013 introduced an additional 0.75 percent tax to contribute to the renovation of Texas A&M University's Kyle Field. Although these rates are relatively low, Brazos County had the second-highest HOT revenue among the Comptroller's survey respondents (\$2.6 million in fiscal 2015) after El Paso County (\$3.6 million), probably due to the high number of visitors to Texas A&M.

The city of *El Paso* collects the municipal hotel occupancy tax at 7 percent to support an auditorium and convention center, and in 2012 introduced an additional 2 percent levy via a venue district hotel tax for a multipurpose sports stadium. Combined city HOT taxes totaled \$13.1 million in fiscal 2015.

Reeves County has a particularly complex history with venue-related HOT levies. In 2005, Reeves County and the city of Pecos formed a special district to levy the tax. Legislation approved in 2011 led to the dissolution of this district and the transfer of its revenues to a new county-controlled fund to collect a 2 percent venue tax. These funds may be used for the community center and rodeo, purposes cited in the election language that created the special district. Broader uses intended for the venue tax, such as advertising and promotion of the arts and heritage, are supported by Pecos' 7 percent city HOT tax.

HOT Revenue in the Oil Bust

Many communities whose economies were buoyed by high oil prices just a few years ago have seen a marked decline in HOT revenue, as lower oil prices spur producers and service companies to cut back on staffing and related spending. Once-bustling hotels in the oil patch now have empty rooms and are cutting prices to compete for what trade is left.

In the Eagle Ford Shale region, for example, the city of Kenedy has seen its HOT revenue plummet from \$257,000 in the first quarter of fiscal 2014 to less than \$123,000 in the same quarter of 2016. Such steep declines are commonplace across South Texas oilfield cities and counties.

It's a similar story in the Permian Basin. For example, Brownfield's local HOT revenues have been declining steadily since oil prices began falling in summer 2014. Collections exceeded \$65,000 in the third quarter of 2014, but fell to just \$31,000 in the first quarter of 2016.

What's Next for Local Hotel Taxation?

If history is a guide, the 2017 Legislature probably will see bills filed on behalf of communities seeking authority to levy a hotel tax, or to expand their spending authority to convention facilities or hotels to serve them.

One thing that's *unlikely* to happen is a streamlined, one-size-fits-all approach to clean up the complex HOT statutes. That might take a session in itself. **FN**

Find out more about [Texas state and local hotel occupancy tax statutes](https://comptroller.texas.gov/taxes/hotel/) [comptroller.texas.gov/taxes/hotel/].

HOTEL ROOM REVENUE					
Revenue Description	Taxable Yes or No	Tax Type	Additional Comments	Authority	
1. Transient Rooms Revenue	Yes	Hotel Occupancy	The state hotel occupancy tax rate is 6%. Cities and authorized counties and special purpose districts may impose additional local hotel taxes that are administered and collected by the local taxing authorities.	Tex. Tax Code §156.052	
2. Room Cancellation Fee	Yes*	Hotel Occupancy	Hotel tax is due when the full room rate is paid and cancellation is within 30 days of the scheduled stay. *Fees paid that are less than the room rate are not taxable, such as a percentage or sliding scale.	Tex. Tax Code §156.051(a); Comptroller's Decision Nos. 24,654 and 40,676 (STAR Accession Nos. 8906H0952A07 and 200201878H)	
3. Complimentary Rooms Provided at No Charge:					
a. Guests	No		Hotel tax is not due if hotel receives no consideration for the room.		
b. Employees	No		Hotel tax is not due if hotel receives no consideration for the room. An internal reimbursement or internal payment within a company for the use of a room is not taxable (e.g., a hotel company makes an internal transfer to a specific hotel in which the hotel company's employee stayed while inspecting the hotel).	Tex. Tax Code §156.051(a)	
c. Travel Agents, Advertisers, etc.	No*		Hotel tax is not due if the hotel receives no consideration for the room. *Any barter or trade for a room is taxable.	Tex. Tax Code §§151.005 and 156.051(a)	
4. Early Departure Fee	No		Early departure fees are not taxable, unless equal to the room rate (see Room Cancellation Fee).	Tex. Tax Code §156.051(a)	
5. Late Departure Fee	No		Late departure fees are not taxable, unless equal to the room rate (see Room Cancellation Fee).	Tex. Tax Code §156.051(a)	
6. Room Attrition Fee (Fee charged because group did not fulfill their total event commitment. For example, an event blocked 200 rooms, but only 150 rooms were rented and occupied and the event was charged a penalty for 50 rooms not rented.)	Yes*	Hotel Occupancy	Room attrition fees are taxable only if by paying the fee a person has paid the consideration necessary to achieve the right to use or possess the room. In the example given, the group is charged the full price of rooms not rented and, therefore, the fee is taxable. *An attrition fee that is based on a percentage or sliding scale is not taxable (see Room Cancellation Fee).	Tex. Tax Code §156.051(a); Comptroller's Decision Nos. 24,654 and 40,676 (STAR Accession Nos. 8906H0952A07 and 200201878H)	

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Quick Reference Guide for Hotels
Texas Comptroller of Public Accounts

7. Packages (e.g., golf, honeymoon, and ski packages)	Yes	Sales, Hotel Occupancy, or Mixed Beverage	When the bill to the customer is lump sum, the entire amount is subject to hotel tax; when the bill separately states the room charge from the other package items, the room charge is subject to hotel tax. The other separately listed package items may be subject to different taxes, such as sales or mixed beverage taxes.	34 Tex. Admin. Code §§3.162 and 3.293
8. Rooms for resale sold to:				
a. Tour operators	Yes*	Hotel Occupancy	Texas hotel tax laws do not have a resale provision. Hotels should collect tax on the price paid for a room by persons who resell hotel rooms and by agents who obtain hotel rooms on behalf of customers. The tax responsibilities of persons who obtain rooms for other persons is determined by their specific actions relating to control of a hotel room.	Tex. Tax Code §156.051
b. Meeting planners	Yes*	Hotel Occupancy		
c. Online travel companies and others who resell rooms	Yes*	Hotel Occupancy		
* This issue is currently being litigated.				
9. Banquet/Meeting Room Revenue (No Meals Served)	Yes*	Hotel Occupancy	When the banquet or meeting room is located inside the hotel (building with sleeping rooms), the hotel must collect the 6% state hotel tax, unless an exemption applies. Local hotel taxes are only imposed on sleeping rooms. <i>*When the banquet or meeting room is located in a building separate from the hotel, the hotel shall not collect hotel tax.</i>	Tex. Tax Code §§156.051(a), 351.002(a), and 352.002(a); 34 Tex. Admin. Code §§3.162 and 3.293
10. Banquet/Meeting Room Revenue (Meals Served)				
a. Room located inside hotel (building with sleeping rooms) - Separated billing	Yes	Hotel Occupancy and Sales	Collect sales tax on the charge for food; collect the 6% state hotel tax (not local) on the charge for the banquet/meeting room.	Tex. Tax Code §§151.314(c-2) and 156.051; 34 Tex. Admin. Code §3.162
b. Room located inside hotel (building with sleeping rooms) - Lump sum billing	Yes	Hotel Occupancy	Collect the 6% state hotel tax (not local) on the lump-sum charge.	Tex. Tax Code §156.051; 34 Tex. Admin. Code §§3.162 and 3.293

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<p>c. Room located in a building separate from the hotel - Separated or lump sum billing</p>	<p>Yes</p>	<p>Sales</p>	<p>Collect sales tax on the entire charge, even when the banquet/meeting room and food charges are separately stated. The hotel is a caterer of meals and collects tax on the total price for preparing or serving the meals, including separately stated expenses. A charge for the facility is an expense connected with the sale of the meal.</p>	<p>Tex. Tax Code §§151.005(6) and 151.314(c-2); 34 Tex. Admin. Code Section §3.293</p>
<p>11. Child Care Expenses</p>	<p>No</p>		<p>Hotel tax is not due on separately stated charges for personal services, except those related to cleaning and readying a room for occupancy. A child care service is a personal service and not taxable.</p>	<p>Tex. Tax Code §156.051; 34 Tex. Admin. Code §3.162</p>
<p>12. Pet Fees</p>	<p>Yes</p>	<p>Hotel Occupancy</p>		
<p>13. Rollaway Bed Charges</p>	<p>Yes</p>	<p>Hotel Occupancy</p>	<p>Hotel tax is due on all charges for items or services, other than personal services or the use of a telephone, furnished in connection with the actual occupancy of the a room, including a charge for a pet, rollaway bed, refrigerator, or safe.</p>	<p>Tex. Tax Code §156.051; 34 Tex. Admin. Code Section §3.162</p>
<p>14. Refrigerator Charges</p>	<p>Yes</p>	<p>Hotel Occupancy</p>		
<p>15. Safe Charges</p>	<p>Yes</p>	<p>Hotel Occupancy</p>		
<p>16. Reward points redemption programs: Hotel pays a predetermined amount to a rewards fund each time a member of the reward points program stays at the hotel; each time a member redeems points for a free room or upgrade, the rewards fund pays the hotel a predetermined amount.</p>	<p>No</p>		<p>Check with the local taxing authorities to determine local hotel tax policies regarding reward points redemption programs. State hotel tax is not be due on reimbursements from reward points redemption programs if hotel records show that the amount the hotel receives from the rewards fund is money previously paid to the fund by the hotel, excluding any administrative charges. Any amount received that exceeds the amount previously paid into the rewards fund, excluding administrative charges, is taxable.</p>	<p>Tex. Tax Code §156.051(a)</p>

HOTEL ROOM REVENUE EXEMPTIONS					
Description	Tax Exempt?	Time Period	Documentation Required	Additional Comments	Authority
Non-Transient:					
1. Can a guest be considered non-transient?	Yes	30 consecutive days	Records showing room rental of 30 or more consecutive days, OR written agreement or notice of intent to stay for at least 30 consecutive days and proof a room was rented for the next 30 consecutive days	Texas law provides a permanent resident exemption for persons who have the right to occupy a room for 30 or more consecutive days. To qualify, non-transients (permanent residents) may either occupy a room for 30 or more consecutive days (pay tax on first 30 days, but exempt thereafter); OR enter into written agreement with the hotel or give the hotel written notice of intent to stay at least 30 consecutive days and have right to occupy room for the next 30 consecutive days (exempt beginning date of notice or agreement). Any interruption in occupancy voids the exemption. Checking a guest out and immediately back in is NOT an interruption of the guest's right to occupy a room.	Tex. Tax Code §156.101; 34 Tex. Admin. Code §3.161
2. Can Corporations, Partnerships, and LLCs qualify as non-transient?	Yes	30 consecutive days	Records showing room rental of 30 or more consecutive days, OR written agreement or notice of intent to stay for at least 30 consecutive days and proof a room was rented for the next 30 consecutive days	The hotel must invoice and be paid by the same person (corporation, partnership, LLC, etc.); the exemption is not dependent on the same natural person occupying the room or that the same room be rented each night.	Tex. Bus. & Com. Code §1.201(b)(27); 34 Tex. Admin. Code §3.161; and STAR Accession No. 6003A0156E03
3. Can Airline Crew Rooms qualify as-non transient?	Yes	30 consecutive days	Contract showing rental of room(s) for more than 30 consecutive days	The exemption applies to the number of rooms specified in the contract and rented for at least 30 consecutive days. For a range of rooms, the exemption only applies to the lowest number of rooms in the range plus any additional rooms rented at least 30 consecutive days. Different crew members may occupy different rooms; however, the same number of rooms must be rented for at least 30 consecutive days to be exempt.	34 Tex. Admin. Code §3.161
4. Is a written contract required for non-transient status?	No	Not Applicable	Records showing room rental of 30 or more consecutive days, OR written agreement or notice of intent to stay for at least 30 consecutive days and proof a room was rented for the next 30 consecutive days	If there is no written agreement or notice, a guest can become exempt on the 31st consecutive day of occupancy and will remain exempt until there is an interruption in occupancy; however, tax is due on the first 30 days and the guest is not entitled to a refund.	34 Tex. Admin. Code §3.161
5. After guests have met non-transient requirements...					
a. Can taxes be refunded from the first date of stay?	Yes*	30 consecutive days	Written notice of intent to stay for at least 30 consecutive days with record showing room rented for 30 or more consecutive days	Hotel may refund tax back to date hotel received written notice of intent to stay for 30 or more days <i>*otherwise, the first 30 days are taxable</i>	34 Tex. Admin. Code §3.161

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b. Is a hotel required to collect taxes from Day One if a written contract exists?	No	30 consecutive days	Copy of contract or notice for stay of 30 or more consecutive days	Even with contract/written notice, the hotel can be held liable for hotel tax if the guest fails to pay for 30 consecutive days. The hotel may wish to collect tax for first 30 days, then refund or credit the tax.	Tex. Tax Code §§156.053; 34 Tex. Admin. Code §3.161
Federal, State, Local Government:					
6. Federal government employees qualify for exemption if:					
a. Payment made directly by agency?	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302) and proof of direct payment by agency	Federal government agencies are exempt from state and local hotel tax. Examples of direct payment include an agency purchase order, agency credit card, agency debit card, agency check, or direct billing. Any person may physically occupy the room.	Tex. Tax Code §156.103(a); 34 Tex. Admin. Code §3.161
b. Payment made by agency employee who is reimbursed by agency?	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept certificate in good faith, a valid government ID must be presented	Employees traveling on official business are exempt from state and local hotel taxes; manner of payment does not affect the exemption.	Tex. Tax Code §§156.103(a) and 156.104(a); 34 Tex. Admin. Code §3.161
7. State government employees qualify for exemption if:					
a. Payment made directly by agency?	No	Not Applicable	Texas state agencies do not claim exemption with the hotel	Texas state agencies can apply with the Comptroller for a rebate of hotel taxes paid to hotels or reimbursed to employees. See 7.c. for exemption for designated state officials and employees.	Tex. Tax Code §§156.103(b) and 156.154; 34 Tex. Admin. Code §3.163
b. Payment made by employee who is reimbursed by agency?	No	Not Applicable	Most Texas state employees cannot claim exemption with the hotel	Most Texas state employees must pay hotel tax. A state employee whose agency uses the Texas Uniform Statewide Accounting System (USAS) is automatically reimbursed through the employee's travel voucher for hotel taxes paid by the employee. A state agency that does not use the USAS must request a refund directly from the Comptroller and local taxing jurisdictions for state and local hotel taxes.	Tex. Tax Code §§156.103(d) and 156.104(a); 34 Tex. Admin. Code §3.161
c. Employee is a designated Texas state official?	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302) and designated Texas state official's Hotel Occupancy Tax Exemption Photo ID or Card	Designated Texas officials - mostly heads of state agencies, district attorneys, district and appellate court judges, members of state boards and commissions, and the Texas Legislature - are exempt from state and local hotel tax.	Tex. Tax Code, Chapter 156, Subchapter C-- Exceptions to Tax
8. Other states' government employees	No	Not Applicable	Not exempt	Agencies from other states and their employees are not exempt.	Tex. Tax Code, Chapter 156, Subchapter C-- Exceptions to Tax
9. Local government employees	No	Not Applicable	Not exempt	Local government agencies and their employees are not exempt.	Tex. Tax Code, Chapter 156, Subchapter C-- Exceptions to Tax

10. Foreign Missions and Diplomats	Yes	Not Applicable	Tax Exemption Card issued by the U.S. Department of State and a completed Hotel Occupancy Tax Exemption Certificate (Form 12-302)	Foreign missions and diplomats that have received a hotel tax exemption from the Office of Foreign Missions, U.S. Department of State, are exempt from state and local hotel tax.	34 Tex. Admin. Code §3.161
Other:					
11. Non-profit organizations - 501(c)(3) Organizations	No	Not Applicable	Not exempt	501(c)(3) organizations are not exempt.	Tex. Tax Code, Chapter 156, Subchapter C-- Exceptions to Tax
12. Religious and Charitable Organizations	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept exemption certificate in good faith, copy of Comptroller's letter of exemption or name on Comptroller's list of exempt entities is required	Exempt from 6% state hotel tax only; any local hotel tax imposed must be paid. Employees traveling on official business are also exempt. The method of payment by the employee is immaterial; however, non-employees must pay with exempt organization funds (check, credit card, or direct billing).	Tex. Tax Code §§156.102, 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161
13. Public Schools (elementary and secondary):					
a. In-state	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept exemption certificate in good faith, copy of Comptroller's letter of exemption or name on Comptroller's list of exempt entities is required.	In-state and out-of-state public schools are considered educational organizations for hotel tax purposes and are exempt from 6% state hotel tax; any local hotel tax imposed must be paid.	Tex. Tax Code §§156.102(a), 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161
b. Out-of-state	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); a Comptroller's letter of exemption as an educational organization is not required, but the organization may have one.	In-state and out-of-state public schools are considered educational organizations for hotel tax purposes and are exempt from 6% state hotel tax; any local hotel tax imposed must be paid.	Tex. Tax Code §§156.102(a), 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161
14. Nonprofit Private Schools (elementary and secondary):					
a. In-state	Yes*	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept exemption certificate in good faith, copy of Comptroller's letter of exemption or name on Comptroller's list of exempt entities is required.	In-state and out-of-state nonprofit private elementary and secondary schools are considered educational organizations for hotel tax purposes and are exempt from 6% state hotel tax; any local hotel tax imposed must be paid. <i>*For-profit private elementary and secondary schools are not exempt.</i>	Tex. Tax Code §§156.102(a), 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161
b. Out-of-state	Yes*	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept exemption certificate in good faith, copy of Comptroller's letter of exemption or name on Comptroller's list of exempt entities is required.	In-state and out-of-state nonprofit private elementary and secondary schools are considered educational organizations for hotel tax purposes and are exempt from 6% state hotel tax; any local hotel tax imposed must be paid. <i>*For-profit private elementary and secondary schools are not exempt.</i>	Tex. Tax Code §§156.102(a), 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161

15. Public and Nonprofit Private Universities and Colleges (institutions of higher education):					
a. In-state	Yes	Not Applicable	Completed Hotel Occupancy Tax Exemption Certificate (Form 12-302); to accept exemption certificate in good faith, copy of Comptroller's letter of exemption or name on Comptroller's list of exempt entities is required.	In-state public and nonprofit private universities and colleges are considered educational organizations for hotel tax purposes and are exempt from 6% state hotel tax; any local hotel tax imposed must be paid.	Tex. Tax Code §§156.102(a), 156.104(a), 351.006, and 352.007; 34 Tex. Admin. Code §3.161
b. Out-of-state	No	Not Applicable	Not exempt	Out-of-state public and nonprofit private universities and colleges do not qualify as educational organizations for hotel tax purposes and are not exempt from hotel tax.	Tex. Tax Code §156.102(b)(2)
16. Scientific Organizations	No	Not Applicable	Not exempt	Scientific organizations are not exempt from hotel tax.	Tex. Tax Code Chapter 156, Subchapter C--Exceptions to Tax

Texas Tax-Exempt Entity Search: Charitable, educational, religious, and nonprofit organizations that have been issued a letter of tax exemption are listed on the Comptroller's website at: comptroller.texas.gov/taxinfo/exempt/exempt_search

 **Taxes****Hotel Occupancy Tax FAQs**

▼ Where is the monthly and quarterly hotel receipts data previously found on the Comptroller's Hotel Data Search page?

The Hotel Data Search page was removed from the Comptroller website in accordance with Senate Bill 1086 , passed during the 85th legislative session. This bill prohibits state agencies from posting hotel receipts information from a business on a public website. Users are still permitted to request the data by submitting an open records request [comptroller.texas.gov/about/policies/open-records/].

▼ Who has to collect hotel taxes?

A hotel's owner, operator or manager must collect hotel taxes from their guests. For the purposes of the *state* tax, a hotel is considered to be any building in which members of the public rent sleeping accommodations for \$15 or more per day. *Local* hotel taxes apply to sleeping rooms costing \$2 or more per day.

The tax covers hotels, motels, and bed and breakfasts, as well as condominiums, apartments and houses rented for less than 30 consecutive days. Hotel tax does not apply to hospitals, sanitariums, nursing homes, student dormitories operated by colleges and universities, or condominiums, apartments and houses leased for more than 30 consecutive days.

▼ What is the hotel tax rate?

The state hotel tax rate is 6 percent.

Cities and some counties and special purpose districts can each levy local hotel taxes, generally at rates varying up to 7 percent; sports and community venue projects can levy hotel taxes at rates varying up to 2 percent, except for Dallas County which can impose a hotel venue tax at a rate of up to 3 percent.

For example, in Houston there is 6 percent state tax, 7 percent Houston tax, 2 percent Harris County tax and 2 percent Harris County - Houston Sports Authority tax.

▼ What government agency handles hotel taxes?

The Comptroller's office collects and administers the 6 percent state hotel tax, while cities and counties are responsible for collecting their own local hotel taxes.

▼ Can I use a hotel's existing taxpayer number if I buy a hotel?

There are various factors that affect the answer to this question, so please call our Hotel Occupancy tax help line toll-free at 800-252-1385 to discuss your situation with a tax specialist.

▼ How do I apply for a hotel tax permit?

While the Comptroller's office does not issue printed hotel tax permits, businesses that report the tax should send a completed Form AP-102, Hotel Occupancy Tax Questionnaire [comptroller.texas.gov/forms/ap-102.pdf] to the Comptroller's local field office [comptroller.texas.gov/about/contact/locations.php].

Owners and operators should contact the county and city where their hotel is located for more information about collecting and reporting local hotel taxes.

▼ Is there hotel tax on meeting or banquet rooms?

The 6 percent state hotel tax applies to any room or space in a hotel, including meeting and banquet rooms. Local hotel taxes, however, are due only on those rooms ordinarily used for sleeping.

There are no state or local hotel taxes on meeting and banquet rooms located in a building where no sleeping accommodations are provided.

▼ Who is exempt from paying state and local hotel taxes?

- The U.S. government and its employees traveling on official business.
- Foreign diplomats issued a tax exemption card by the U.S. Department of State, unless the card specifically excludes hotel tax.
- Certain Texas state officials with special hotel tax exemption cards (includes heads of state agencies, members of state boards and commissions, judicial officials at the district court level and above, state legislators and legislative employees).
- Permanent residents who occupy a room for at least 30 consecutive days. Any interruption in the term of occupancy will void the exemption.
 - Guests who stay 30 or more days and notify the hotel in writing of their intention beforehand are exempt from the day of notification.
 - Guests who do not notify the hotel must pay the tax the first 30 days and are exempt thereafter.
- Some nonprofit entities and their employees traveling on official business.
 - The entity must have received a hotel tax exemption letter from the Comptroller's office.
 - The reason for the exemption must be written on the exemption certificate. For example, "exempt per Electric Cooperative Act, Utilities Code, Chapter 161" or "exempt per Telephone Cooperative Act, Utilities Code, Chapter 162."

▼ Who is exempt from paying only the state hotel tax?

Religious, charitable and educational organizations that have received a letter of exemption from the Comptroller's office are exempt from the 6 percent state hotel tax. The exemption extends to their employees traveling on official business, but does not apply to any local hotel taxes, which must be paid.

- Exempt religious organizations [comptroller.texas.gov/taxes/exempt/index.php#other-label] include nonprofit churches and their guiding or governing bodies, but do not include missionary organizations, Bible study groups or churches made up only of family members.
- Charitable organizations [comptroller.texas.gov/taxes/exempt/index.php#other-label] include nonprofit organizations whose sole purpose is to provide food, clothing, drugs, treatment or shelter directly to indigent and needy persons. Not included are 501(c)(3) not-for-profit corporations, social groups, professional or business groups, fraternal organizations, or similar organizations.
- Educational organizations [comptroller.texas.gov/taxes/exempt/index.php#school-label] include independent school districts, public and private elementary and secondary schools, and Texas institutions of higher education (public and private colleges, universities, junior colleges, and community colleges). Not included are research organizations, home schools and organizations that mainly provide support services to schools. Effective October 1, 2003, non-Texas institutions of higher education no longer qualify for exemption.

▼ How can my organization apply for a hotel tax exemption?

To apply for exemption, qualifying religious, charitable and educational organizations must complete and submit the appropriate application and supporting documentation. If an organization qualifies for the exemption, the Comptroller's office will send instructions on how to get an exemption verification letter. For additional information on exemptions, please refer to *Hotel Occupancy Tax Exemptions* [comptroller.texas.gov/taxes/publications/96-224.php].

▼ Why do some hotels collect tax after a permanent resident gives written notice?

A hotel is liable for tax if a guest fails to stay for 30 consecutive days. In this case, a hotel may prefer to collect tax and then later give the guest a refund or credit.

▼ Does an exempt organization have to pay the hotel directly or can the guest pay?

The payment method of an exempt organization's employee does not affect the exemption. Non-employees of an exempt organization, however, must pay the hotel with the organization's funds (organization check, credit card or direct billing).

▼ Are third-party contractors working for the federal government exempt?

No, third-party contractors completing contracts for the government or using federal grant money are not exempt and must pay state and local hotel taxes.

▼ Are Texas state agencies and their employees exempt from hotel taxes?

No, state agencies (except Texas institutions of higher education) and their employees (except certain state officials described above) must pay state and local hotel taxes. State employees traveling on official state business can request a reimbursement of the state and local hotel taxes on their travel vouchers.

▼ Are local government agencies and their employees exempt from hotel taxes?

No, county and city agencies and their employees must pay state and local hotel taxes, and cannot request refunds of taxes paid.

▼ How does a hotel guest claim an exemption?

An exempt organization or its employee must give the hotel a completed Form 12-302, Texas Hotel Occupancy Tax Exemption Certificate [comptroller.texas.gov/forms/12-302.pdf], and proof that the organization has received a letter of hotel tax exemption from the Comptroller's office at the time of registration. Organizations that have received hotel tax exemption can be found by using the Comptroller's Tax-Exempt Entity Search [comptroller.texas.gov/taxes/exempt/search.php].

▼ What do hotels need to verify an exemption?

Hotels can accept exemption certificates in good faith when the guest provides the following supporting documentation:

- federal employees traveling on government business - a valid government identification card;
- designated Texas state employees - a special hotel tax exemption photo ID or card that states the holder is exempt from hotel taxes;
- foreign diplomats - a tax exemption card issued by the U.S. Department of State that exempts the diplomat or mission, unless the card specifically excludes hotel tax;
- employees and representatives of a specific nonprofit entity or a nonprofit charitable, educational or religious organization traveling on organization business - a Comptroller's letter of hotel tax exemption or verification that the organization is on the Comptroller's list of exempted entities, such as a printed copy of the Comptroller's Tax-Exempt Entity Search [comptroller.texas.gov/taxes/exempt/search.php] showing the organization is exempt for hotel tax.

▼ Do entities have to report their hotel occupancy tax information?

Yes, starting in 2018 municipalities must report their local HOT information to the Comptroller every year. The reporting period opens on Jan. 1st and closes Feb 20th. Please review the Municipal Hotel Occupancy Tax Reporting webpage [comptroller.texas.gov/transparency/local/hotel-receipts/] for more information.

Need Additional Help?

- Read *Hotel Occupancy Tax Exemptions* [comptroller.texas.gov/taxes/publications/96-224.php]
- Use our Tax-Exempt Entity Search [comptroller.texas.gov/taxes/exempt/search.php]

- Call a hotel tax specialist toll-free at 800-252-1385

 **Taxes****Hotel Occupancy Tax FAQs**

Airbnb

As of May 1, 2017, Airbnb began collecting and remitting the 6 percent state hotel occupancy tax on Texas short-term rentals booked through the Airbnb website.

The following are frequently asked questions from Airbnb Hosts and the answers:

▼ **When did Airbnb begin collecting and remitting Texas state hotel occupancy tax?**

On May 1, 2017, Airbnb began collecting and remitting Texas state hotel occupancy taxes on behalf of all hosts for all bookings on the Airbnb website from that date forward. Hosts will no longer be responsible for collecting such taxes on Airbnb rentals and will not have an option to opt-out of collection by Airbnb.

▼ **Do Hosts need to report Airbnb rental receipts or taxes collected to the Comptroller after May 1, 2017?**

Hosts should not report any of their Airbnb rental receipts to the Comptroller on the Texas Hotel Occupancy Tax Report (form 12-100), either in Item 4 "Total Dollar Amount of Receipts" or Item 5 "Total Taxable Receipts" for any Airbnb bookings made on or after May 1, 2017. Airbnb will report rental receipts and remit state hotel occupancy taxes to the Comptroller for its Hosts' rentals.

▼ **Are Hosts responsible for state hotel occupancy taxes collected on Airbnb rentals prior to May 1, 2017?**

Yes. Hosts are responsible for collecting state hotel occupancy taxes and remitting to the Comptroller. Any bookings Hosts have through Airbnb prior to May 1, 2017, must be reported to the Comptroller.

▼ **Are Hosts responsible for state hotel occupancy taxes on bookings/reservations made prior to May 1, 2017, for stays that occur after that date?**

Yes. Hosts are responsible for state hotel occupancy taxes on bookings/reservations made prior to May 1, 2017, regardless of when the guest actually occupies the short-term rental.

▼ **Are Hosts responsible for local hotel occupancy taxes after May 1, 2017?**

Many cities and certain counties and special purpose districts impose a local hotel occupancy tax. Hosts may be responsible for local hotel occupancy taxes imposed by taxing jurisdictions where their short-term rentals are located for both Airbnb rentals and non-Airbnb rentals. If Hosts have further questions regarding local taxes, they should contact their local jurisdictions for more information.

▼ What if Hosts use non-Airbnb websites for their short-term rentals?

The collection and remittance of Texas state hotel occupancy tax is required for all short-term rentals (unless an exemption applies). Although Airbnb is handling the tax for bookings on its site, Hosts are still required to collect and remit the tax for bookings made on non-Airbnb rentals.

▼ Can Hosts who only offer short-term rentals through Airbnb close their hotel occupancy tax accounts with the Comptroller after May 1, 2017?

Yes. Hosts may close their state hotel occupancy tax account if, after May 1, 2017, they offer all of their short-term rentals through Airbnb. Hosts who do not close their accounts must file reports showing zero receipts or be subject to a \$50 non-filer penalty. Hosts may still have reporting requirements for local hotel occupancy tax on Airbnb rentals within the city, county, or special purpose district that impose a hotel occupancy tax. If Hosts have further questions regarding local taxes, they should contact their local jurisdictions for more information.

▼ Can a Host exempt guests who qualify for exemption from state hotel occupancy tax after May 1, 2017?

No. Airbnb treats all rentals of 29 days or less as taxable. If an exemption applies, Airbnb will refund the guest directly, and will maintain necessary documentation to support the exemption.

▼ What should a Host do if they are audited by the Comptroller for short-term rentals booked through Airbnb?

Hosts are not liable for state hotel occupancy taxes collected by Airbnb after May 1, 2017. Instead, Airbnb is responsible for state hotel occupancy taxes collected after May 1, 2017.

In the event of an audit, Hosts can view detailed information about their Transaction History located in their Airbnb account through Airbnb's website.

▼ Where can Hosts find information about the taxes Airbnb has remitted on their behalf?

Hosts can view detailed information about their Airbnb bookings any time in their Transaction History, located in their Airbnb account.

▼ Will Airbnb report to the Comptroller any personally identifiable information regarding the Hosts or Guests on its Texas Hotel Occupancy Tax Report?

No. Airbnb will not report any personally identifiable information regarding the Hosts or guests on its Texas Hotel Occupancy Tax Report to the Comptroller. Airbnb will only be reporting total receipts and total taxable receipts for each city and county.

▼ Can Hosts claim the 1% Timely Filing Discount on Airbnb rentals made after May 1, 2017?

No. The person required to file a Texas Hotel Occupancy Tax Report may deduct one percent of the amount of the tax due as shown on the report as reimbursement for the cost of collecting the tax. As of May 1, 2017, for Airbnb rentals, Airbnb is required to collect state hotel occupancy taxes and is required to file a Texas Hotel Occupancy Tax Report. Therefore, Hosts may not take the timely filing discount. Hosts may continue to take the timely filing discount on non-Airbnb rentals.

 **Taxes****Hotel Occupancy Tax FAQs**

HomeAway

As of April 1, 2019, HomeAway will collect and remit the 6 percent state hotel occupancy tax on Texas short-term rentals booked through HomeAway websites.

The following are commonly asked questions from HomeAway Partners, followed by the answers.

▼ **When will HomeAway begin collecting and remitting Texas state hotel occupancy tax?**

On April 1, 2019, HomeAway will begin collecting and remitting Texas state hotel occupancy taxes on behalf of all Partners for all bookings on HomeAway websites from that date forward. Partners will no longer be responsible for collecting such taxes on HomeAway rentals and will not have an option to opt-out of collection by HomeAway.

▼ **Do Partners need to report HomeAway rental receipts or taxes collected to the Comptroller after April 1, 2019?**

Partners should not report their HomeAway rental receipts to the Comptroller on the Texas Hotel Occupancy Tax Report (form 12-100), either in Item 4 "Total Dollar Amount of Receipts" or Item 5 "Total Taxable Receipts" for HomeAway rentals on or after April 1, 2019. HomeAway will report rental receipts and remit state hotel occupancy taxes to the Comptroller for its Partners' rentals.

▼ **Are Partners responsible for state hotel occupancy taxes collected on HomeAway rentals prior to April 1, 2019?**

Yes. Partners who collected state hotel occupancy taxes on HomeAway short-term rentals booked prior to April 1, 2019, regardless of the dates of stay, are responsible for remitting and reporting those taxes to the Comptroller. Partners are not responsible for reporting taxes on short-term rentals made through HomeAway after April 1, 2019. Partners who did not collect state hotel occupancy taxes on HomeAway short-term rentals booked prior to April 1, 2019, are responsible for collecting and remitting state hotel occupancy taxes on those rentals for any periods prior to April 1, 2019, and reporting those rentals to the Comptroller.

▼ **Are Partners responsible for local hotel occupancy taxes after April 1, 2019?**

Many cities and certain counties and special purpose districts impose a local hotel occupancy tax. Partners may be responsible for local hotel occupancy taxes imposed by taxing jurisdictions where their short-term rentals are located for both HomeAway rentals and non-HomeAway rentals. If Partners have further questions regarding local taxes, they should contact their local jurisdictions for more information.

▼ What if Partners use non-HomeAway websites for their short-term rentals?

The collection and remittance of Texas state hotel occupancy tax is required for all short-term rentals (unless an exemption applies). Although HomeAway is handling the tax for bookings on its site, Partners are still required to collect and remit the tax for bookings made on non-HomeAway rentals.

▼ Can Partners who only offer short-term rentals through HomeAway close their hotel occupancy tax accounts with the Comptroller after April 1, 2019?

Yes. Partners may close their state hotel occupancy tax account if, after April 1, 2019, they offer all of their short-term rentals through HomeAway. Partners who do not close their accounts must file reports showing zero receipts or be subject to a \$50 non-filer penalty. Partners are responsible for reporting local hotel occupancy tax on HomeAway rentals that are located in a city, county, or special purpose district that imposes a hotel occupancy tax.

▼ Can a Partner exempt travelers who qualify for exemption from state hotel occupancy tax after April 1, 2019?

No. HomeAway considers all rentals of 29 days or less to be taxable. If an additional exemption applies, HomeAway will refund the traveler directly, and will maintain necessary documentation to support the exemption.

▼ What should a Partner do if they are audited by the Comptroller for short-term rentals booked through HomeAway?

Partners are not liable for state hotel occupancy taxes collected by HomeAway after April 1, 2019. Instead, HomeAway is responsible for state hotel occupancy taxes collected after April 1, 2019.

In the event of an audit, Partners can view detailed information about their earnings any time by downloading the Payments Report located in their HomeAway account. The state hotel occupancy taxes collected are listed in the 'Stay Tax We Remit' column in the report, and the state hotel occupancy taxes also appear as a line item on all traveler receipts.

Partners can click the download icon to export the reports to a comma-separated values (CSV) file for a defined period of time, based on the Partner payout date. This is useful in the event a Partner needs to provide proof to an auditor that state hotel occupancy taxes were collected on their HomeAway bookings. If an auditor has any questions regarding the information in the CSV file, they should contact

HomeAway directly, since HomeAway is assuming the responsibility of collecting and remitting state hotel occupancy taxes on rentals booked through HomeAway.

When HomeAway is audited for these transactions, they will be required to prove that they collected and remitted tax on Partners' rentals.

▼ Where can Partners find information about the taxes HomeAway has remitted on their behalf?

Partners can view detailed information about their HomeAway bookings any time from HomeAway through their Payments Report, including the gross amount Partners charged the traveler for the stay, and the amount of taxes HomeAway collected and remitted. The Comptroller does not maintain information on individual Partners.

▼ Are Partners responsible for state hotel occupancy taxes on reservations made prior to April 1, 2019, for stays that will occur after that date?

Yes, Partners are responsible for state hotel occupancy taxes on bookings/reservations made prior to April 1, 2019, regardless of when the traveler actually occupies the short-term rental.

▼ Will HomeAway report any personally identifiable information regarding the Partners or Travelers on its Texas Hotel Occupancy Tax Report to the Comptroller?

No. HomeAway will not report any personally identifiable information regarding the Partners or Travelers on its Texas Hotel Occupancy Tax Report to the Comptroller. HomeAway will only be reporting total receipts and total taxable receipts for each city and county.

▼ Can Partners claim the 1 percent Timely Filing Discount on HomeAway rentals made after April 1, 2019?

No. The person required to file a Texas Hotel Occupancy Tax Report may deduct one percent of the amount of the tax due as shown on the report as reimbursement for the cost of collecting the tax. Beginning April 1, 2019, for HomeAway rentals, HomeAway is required to collect state hotel occupancy taxes and is required to file a Texas Hotel Occupancy Tax Report. Therefore, Partners may not take the timely filing discount. Partners may continue to take the timely filing discount on non-HomeAway rentals.