



# City of Austin

---



## Office of the City Auditor

301 W. 2<sup>nd</sup> Street, Suite 2130

Austin, Texas 78767-8808

(512) 974-2805, Fax: (512) 974-2078

email: [oca\\_auditor@ci.austin.tx.us](mailto:oca_auditor@ci.austin.tx.us)

website: <http://www.ci.austin.tx.us/auditor>

Date: October 26, 2010

To: Mayor and Council

From: Kenneth J. Mory, City Auditor

Subject: Hotel Occupancy Tax Revenue Review Project

I am pleased to present this report on the Hotel Occupancy Tax review project. This is the sixth Hotel Occupancy Tax project we have conducted.

As part of this project, we reviewed the tax exemptions and exceptions claimed by twelve hotels in Austin. We identified six hotels that were not in full compliance with the City's Hotel Occupancy Tax Ordinance, with a resulting revenue deficiency of approximately \$62,000. Though the compliance rate of fifty percent is higher than in past reviews, compliance issues are still a concern.

As in past reviews, we suggest that the City Controller's Office and the City Law Department should work together to collect the HOT revenue owed to the City identified through this project.

In addition, during our work we also determined that recommendations from a previous HOT audit have not been implemented. Therefore, we are recommending that City Management complete the revised HOT ordinance and submit it to City Council for consideration, and work to improve communication to hotels related to documentation requirements for tax exemptions and exceptions claimed.

We appreciate the cooperation and assistance we received from staff in the Controller's Office during this audit.

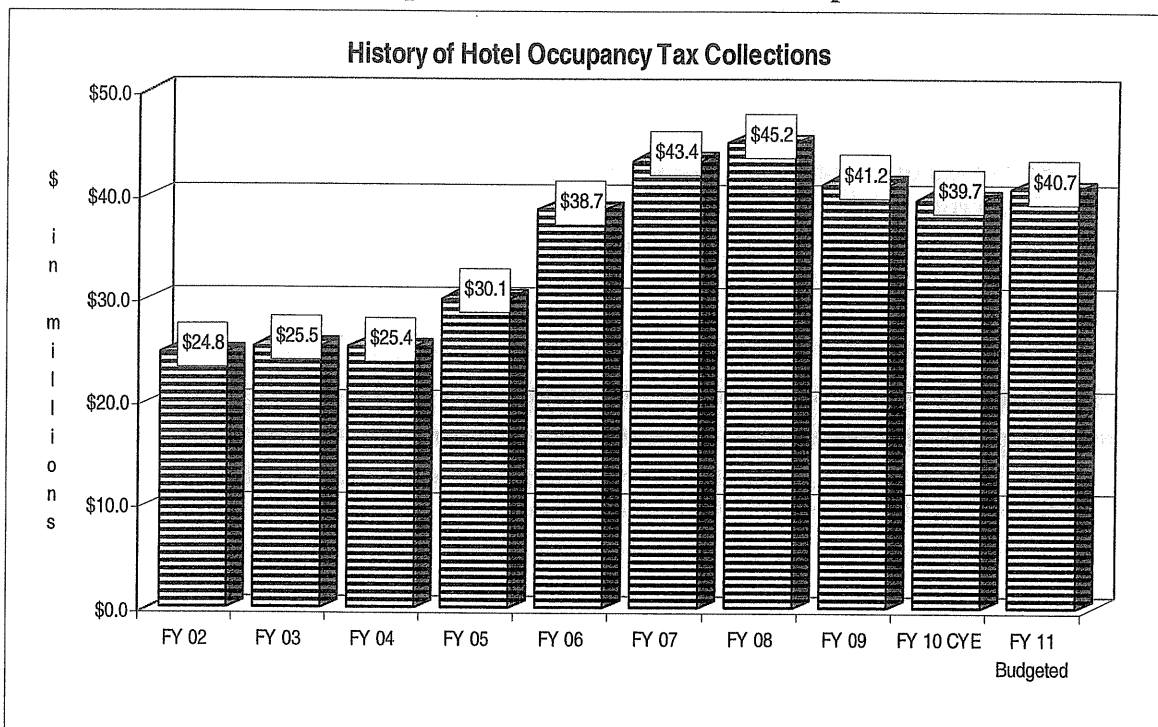
cc: City Manager  
Assistant City Managers  
Finance and Administration Department Director  
Public Information Officer

(This page left intentionally blank)

## BACKGROUND

The City of Austin levies the hotel occupancy tax on qualified room stays. The hotel occupancy tax (HOT) of nine percent is collected on overnight stays costing more than two dollars in hotels, motels, tourist homes, tourist courts, lodging houses, inns, rooming houses, and bed and breakfasts. Currently, there are approximately 220 establishments listed by the City of Austin Controller's Office collecting the tax within Austin's city limits. Hotel occupancy taxes had been steadily increasing since FY 2004-2005 but experienced a downturn in annual revenue two years ago due to economic conditions. Exhibit 1 shows the HOT revenue trend:

**EXHIBIT 1**  
**HOT revenue growth trend peaked in FY 2008 and then experienced a downtrend**



Source: City of Austin Financial and Administrative Services Department

Hotels collect taxes and remit them directly to the Controller's Office. The Controller's Office administers the tax, including accounting and collection responsibilities. The City Law Department plays a supporting role in preparing payment plans for delinquent hotels, offering advice and opinions, and filing City claims against bankrupt hotels. The Office of the City Auditor conducts regular revenue review projects to help ensure compliance.

This is the sixth HOT collection project we have conducted since 2005. Our prior reviews have resulted in identifying \$1.6 million owed to the City by hotels.

## OBJECTIVES, SCOPE AND APPROACH

### Objectives:

- Assist the City of Austin Controller's Office in identifying hotel occupancy tax revenue deficiencies
- Educate the hotel owners/operators on applicable State and City laws and City requirements for documentation and remittance of taxes

### Scope:

- Hotel documentation for exclusions, exemptions, and revenues reported for FY 2006 through the second quarter of FY 2010 for 15 hotels
- Geographical scope is the City's full-purpose jurisdiction

### Approach:

To accomplish our objectives, we:

- Used a risk-based criteria to determine high risk hotels for review
- Reviewed applicable laws and regulations
- Reviewed documentation from the City Controller's Office and the State Comptroller's office
- Interviewed hotel owners, operators and managers
- Reviewed hotel documentation

During the course of our work we discovered that three of the hotels scheduled for review were in bankruptcy proceedings. The City Law Department informed us that we were not entitled to make claims on those hotels while they were under bankruptcy protection. We therefore suspended our review of those hotels.

## PROJECT RESULTS

We identified six hotels that were not in full compliance with the City's Hotel Occupancy Tax Ordinance, with a resulting revenue deficiency of \$62,415. This dollar total does not include any penalties or interest which might be applied on the delinquent amounts.

Though the compliance rate is higher than in past reviews, compliance issues are still a concern. Six of the twelve hotels reviewed were fully in compliance with City ordinance and had no tax deficiency. While this fifty percent compliance rate is higher than identified in earlier reviews, this rate still represents a risk to the City of significant revenue loss.

Understanding and application of State law and City ordinance still present a compliance barrier for many hotels. The compliance issues identified in this project include:

- Poor record keeping, including missing records and accounting errors
- Poor understanding and application of State law and City ordinance, including multiple instances of tax exclusions granted to guests not eligible for them

These are clear indicators that some hotels still do not understand the applicable regulatory codes.

### Further Actions Warranted:

- The City Controller's Office and the City Law Department should work together to collect the HOT revenue owed to the City

As part of our work on this project, we also determined that recommendations from a previous HOT audit related to governance of the HOT tax collections have not been implemented. Therefore, we are recommending that:

- City Management complete the revised HOT ordinance that is currently being drafted, and submit the new version to City Council for consideration.
- City Management work to improve communication to Austin Hotels related to documentation requirements for tax exemptions and exceptions claimed

Management previously concurred with both of these recommendations.