

Austin City Code

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ARTICLE 1. GENERAL PROVISIONS.**§ 11-2-1 DEFINITIONS.**

In this chapter:

- (1) **CONSIDERATION** means the cost of a hotel room only if the room is ordinarily used for sleeping, and does not include the cost of any food served or personal services rendered to the room or a person in the room unless related to the cleaning and readying of the room for occupancy.
- (2) **DEPARTMENT** means the Financial and Administrative Services Department.
- (3) **HOTEL** means a building in which members of the public may obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or other building where a room is furnished for a consideration, but does not include a hospital, sanitarium, or nursing home.

Source: 1992 Code Section 5-3-1; Ord. 031204-10; Ord. 031211-11.

§ 11-2-2 TAX LEVIED; EXCEPTIONS.

(A) A tax of seven percent of the consideration paid for a hotel room is levied on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays the consideration for the use or possession or for the right to the use or possession of a hotel room that costs two dollars or more each day and is ordinarily used for sleeping.

(B) This chapter does not impose a tax on:

(1) a person who has the right to use or possess a hotel room for at least 30 consecutive days, so long as there is no interruption of payment for the period; or

(2) the United States, a governmental entity of the United States, or an officer or employee of the United States.

(C) Except as otherwise provided in Section 156.103 (*Exception-State and Federal Government*) of the Texas Tax Code, the State of Texas, or an agency, institution, board, or commission of the State of Texas other than an institution of higher education, as that term is defined by Section 61.003 (*Definitions*) of the Texas Education Code, shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid.

(D) A person entitled to a refund of tax paid under this section shall make an application for a refund according to the rules prescribed by the department in the form prescribed by the department.

Source: 1992 Code Section 5-3-1 and 5-3-2; Ord. 031204-10; Ord. 031211-11.

§ 11-2-3 COLLECTION OF TAX GENERALLY.

(A) A person who owns, operates, manages, or controls a hotel or collects payment for the use or possession or for the right to the use or possession of a hotel room shall collect the tax levied by this chapter for the City.

(B) A person who collects the tax shall deposit the tax proceeds into in a separate liability account and may not use the tax proceeds for any purpose other than payment to the City.

Source: 1992 Code Sections 5-3-2(A) and 5-3-4(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-4 QUARTERLY REPORTS; PAYMENTS.

(A) A quarterly period under this section is based on the City's fiscal year, with the first quarter beginning on October 1 and ending on December 31.

(B) On or before the last day of the month following each quarterly period, a person required to collect the tax imposed under this chapter shall:

(1) file a written report with the department for that quarterly period, with a copy of the report for state hotel occupancy taxes required by Section 156.151 (*Report and Payment*) of the Texas Tax Code for the same quarterly period; and

(2) pay the tax due for the quarter.

(C) A report under this section shall be in the form prescribed by the department and shall include:

- (1) the total consideration paid for rooms subject to the tax in the preceding quarter;
- (2) the total amount of tax collected; and
- (3) the total amount of tax exemptions granted.

(D) If requested by the department, a person responsible for collecting the tax shall provide the department with:

- (1) the names, addresses, and identification relied upon to grant an exemption from the tax; and
- (2) any other information the department may reasonably require.

(E) The department may request, and a person required to collect the tax shall provide within a reasonable time, additional documentation verifying the information contained in the report to the City.

Source: 1992 Code Section 5-3-1 and 5-3-4(A); Ord. 031204-10; Ord. 031211-11.

§ 11-2-5 COLLECTION PROCEDURE ON PURCHASE OF A HOTEL.

(A) If a hotel owner sells a hotel, the purchaser or his assignee shall withhold an amount of the purchase price sufficient to pay the amount of tax due until the seller provides:

- (1) a receipt issued by the department showing that the amount of tax due has been paid; or
- (2) a certificate issued by the department showing that no tax is due.

(B) A purchaser of a hotel who fails to withhold the amount of the purchase price as required by this section is liable for the unpaid tax required to be withheld to the extent of the value of the purchase price.

(C) The purchaser of a hotel may file a written request with the department for the issuance of a certificate stating that no tax is due or for a statement of the amount required to be paid before a certificate may be issued. The department shall issue the certificate or statement not later than the 60th day after the date that the department receives the request.

(D) If the department fails to issue the certificate or statement within the period provided by Subsection (C), the purchaser is released from the obligation to withhold the amount of tax from the purchase price or pay the amount of tax due.

Source: 1992 Code Section 5-3-3(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-6 RULES; ACCESS TO RECORDS.

(A) The department may promulgate rules to effectively collect the tax imposed by this chapter.

(B) Upon reasonable notice, a person responsible for collecting the tax shall give the department access to the records necessary to determine the accuracy of a report filed or the amount of tax due under this chapter.

Source: 1992 Code Section 5-3-5; Ord. 031204-10; Ord. 031211-11.

§ 11-2-7 ALLOCATION AND USE OF HOTEL OCCUPANCY TAX REVENUE.

(A) This section does not apply to taxes collected under Article 2 (*Venue Projects*).

(B) The revenue derived from the tax authorized by this chapter may be used only as provided by Section 351.101 (*Use of Tax Revenue*) of the Texas Tax Code to promote tourism and the convention and hotel industry as follows:

(1) 64-2/7 percent of the funds collected is allocated to the Convention Center Capital Improvement Project Fund and may be used for:

(a) the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities as defined in Section 351.001 (*Definitions*) of the Texas Tax Code; and

(b) the City's provision of facilities, personnel, and materials for the registration of convention delegates or registrants;

(2) 20-5/7 percent of the funds collected is allocated to the Tourism/Promotion Fund and may be used for:

(a) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the City or its vicinity; and

(b) for 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 located at or in the immediate vicinity of convention center facilities or elsewhere in the City or its vicinity; and

(3) 15 percent of the funds collected is allocated to the Cultural Arts Fund and may be used for 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 a major art form.

(C) Revenue derived from the tax shall only be expended to directly enhance and promote tourism and the City's convention and hotel industry. Tax revenue may not be used as general revenue for general governmental operations of the City.

Source: 1992 Code Section 5-3-6; Ord. 031204-10; Ord. 031211-11.

ARTICLE 2. VENUE PROJECTS.

§ 11-2-11 ADDITIONAL HOTEL TAX.

(A) In addition to the tax levied under Section 11-2-2 (*Tax Levied, Exceptions*), a tax in the amount of two percent of the consideration paid for a hotel room is levied.

(B) This tax supports the Convention Center/Waller Creek Venue Project approved by the voters at the May 2, 1998 election as authorized under Chapter 334 (*Sports and Community Venues*), Subchapter H (*Hotel Occupancy Taxes*) of the Texas Local Government Code.

(C) Articles 1 (*General Provisions*) and 3 (*Violations*) of this chapter apply to this article except to the extent of a conflict.

Source: 1992 Code Sections 5-3-11 and 5-3-12; Ord. 031204-10; Ord. 031211-11.

§ 11-2-12 COLLECTION OF TAX.

(A) A person required to collect a tax under Article 1 (*General Provisions*) shall also collect the tax imposed by this article.

(B) Each bill or other receipt for a hotel charge that is subject to the tax imposed under this article must conspicuously include the following statement:

“The City of Austin requires an additional tax of two percent be imposed on each hotel charge for the purpose of financing a venue project.”

Source: 1992 Code Section 5-3-13; Ord. 031204-10; Ord. 031211-11.

§ 11-2-13 QUARTERLY REPORTS.

A person required to collect a tax under this article shall include in the quarterly reports required under Section 11-2-4 (*Quarterly Reports; Payments*) the following additional information:

- (1) the amount of the tax collected under this article; and
- (2) other information as required by the department.

Source: 1992 Code Section 5-3-14; Ord. 031204-10; Ord. 031211-11.

§ 11-2-14 VENUE PROJECT FUND.

(A) The department shall establish and maintain a separate Venue Project Fund. The department shall maintain records to account for the receipt and disbursement of:

- (1) proceeds of the taxes collected under this article;
- (2) revenue from the sale of bonds or other obligations related to the Convention Center/Waller Creek Venue Project; and
- (3) other money required by law to be deposited in the Venue Project Fund.

(B) The money in the Venue Project Fund shall be maintained in a depository bank of the City.

Source: 1992 Code Section 5-3-15; Ord. 031204-10; Ord. 031211-11.

§ 11-2-15 USE OF REVENUE.

(A) The funds deposited in the Venue Project Fund may only be used for the following purposes:

- (1) to reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating the Convention Center/Waller Creek Project;
- (2) to pay the principal, interest, reserves, and other cost relating to bonds or other obligations issued by the City for the Convention Center/Waller Creek Project, or bonds issued to refund the obligations; or
- (3) to pay the costs of operating or maintaining the project.

(B) The collection of the tax shall be discontinued when the bonds or other obligations described in this section are paid in full, unless the tax is continued in accordance with state law.

Source: 1992 Code Section 5-3-16; Ord. 031204-10; Ord. 031211-11.

ARTICLE 3. VIOLATIONS.

§ 11-2-21 PENALTIES; INTEREST.

(A) In addition to the tax imposed under this chapter, a person shall pay a penalty of five percent of the tax due if the person:

- (1) fails to file a report on or before the due date;
- (2) fails to pay the tax imposed on or before the due date; or
- (3) files a report containing false information.

(B) A person who fails to pay any amount of the tax and penalty due under Subsection (A) on or before the 60th day after the tax is due shall pay an additional five percent penalty on the unpaid tax. A delinquency penalty shall not be less than one dollar.

(C) Beginning on the 61st day after the due date, delinquent taxes shall draw interest at a rate of 10 percent per annum.

Source: 1992 Code Section 5-3-20(A); Ord. 031204-10; Ord. 031211-11.

§ 11-2-22 OFFENSES.

(A) A person commits an offense if the person violates or fails to perform an act required by this chapter, or files a report containing false information. Each instance of a violation of this chapter is a separate offense, and each day that a person remains in violation constitutes a separate offense.

(B) An offense under this chapter is a Class C misdemeanor, punishable as provided in Section 1-1-99 (*Offenses; General Penalty*).

Source: 1992 Code Section 5-3-20(B); Ord. 031204-10; Ord. 031211-11.

§ 11-2-23 ADDITIONAL ENFORCEMENT AUTHORITY.

The City may take the following actions against a person who has failed to file a required report, failed to collect the tax imposed, failed to pay the taxes over to the City when due, or filed a false report:

- (1) bring suit to collect the unpaid tax or to enjoin the person from operating a hotel in the city until the tax is paid or the report filed, as applicable, as provided by the court's order; and
- (2) any other remedy provided under state law.

Source: 1992 Code Section 5-3-20(C) and 5-3-21; Ord. 031204-10; Ord. 031211-11.