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## H.O.T. TIMES IN THE CITY

### A GUIDE TO MAXIMIZE YOUR CITY'S OCCUPANCY TAX

**BY Ted Kamel, Senior Hotel Tax Examiner and Client Services Manager for *MuniServices, LLC*.**

Cities across Texas have experienced a new era in lodging tax growth that has directly affected promoting visitation to their communities. Occupancy taxes spent wisely can be a boost with increased heads in beds for a variety of events like festivals, concerts, sporting events, and other venues that bring guests into cities for short term stays.

Many cities in Texas have seen new prime lodging franchises open. Some communities have seen an increase in lodging facilities for workers needing short term living quarters over a couple weeks to several months. Others are experiencing the recent rise in short term overnight rentals of single family residences, condos, and other units not originally built for lodging purposes.

By following a few important guidelines, your city can analyze and take advantage of these trends to increase hotel tax revenues, and strengthen its ability to manage alternative lodging options.

#### **1. Enhance H.O.T. Ordinance and Local Returns**

The local ordinance should require the lodging provider to register before collecting the tax. Once registered, the business becomes the fiduciary trust in collecting and remitting the tax properly to the city either quarterly or monthly whichever is required per ordinance. Monthly tax remittance historically increases city revenues due to closer scrutiny. Cities should clearly state their right to review and exam periodic records allowed under State statute.

City hotel tax returns should collect more than just taxable rent. Data provided on the local return will provide some critical information that will assist cities beyond just collecting the tax. Strengthened returns will ask for the gross room rent, regular exempt rent allowed under statute, long term exempt rent for those staying over 30 consecutive nights, and finally taxable room revenue. Each tax return should ask for the number of rooms rentable at the property. Further, knowing the number of "room nights rented" assists cities and CVB to analyze trends in lodging occupancy rates, especially after special events.

#### **2. Perform Exams on a Regular Basis**

Coupled with strong hotel tax returns, a regular exam program builds a long-term compliance ethic within a city's lodging community. The best approach is to exam a percent of properties each year. Examiners should carefully study anomalies in data collected especially exempt rent claimed to a city on returns.

Properties should be examined at least once every four years. Changes in ownership along with possible franchise changes warrant periodic review. Owners should be given regular reviews in their

responsibilities with a strong education program. Successor liability issues should be addressed with changes in ownership as well.

Creating volumes of spreadsheets that compare tax returns with property management records will create a large exam report, but will not go far in detecting hidden significant errors in reporting and remittance of the local tax. Examiners should be carefully chosen based on their background in understanding how to analyze long-term exempt rent and other data reviewed forensically.

### **3. Short-Term Rentals Create New Challenges**

Short-term residential, whether single family homes, condos or other units, are growing in popularity in cities across Texas. Some view these short-term rentals as a benefit by expanding the type of lodging options available to guests both seasonable and otherwise. However, many of these rentals are not in commercial zones and may impact neighborhoods. Further, cities are burdened by ensuring these properties are registered and remitting all hotel taxes per the local ordinance.

Cities should be proactive in approaching this growing trend by reforming certain provisions in its lodging and zoning ordinances. Certainly, a requirement for registering the property must be stated and advertised providing penalties for non-compliance. Some municipalities might require a special use permit similar to daycare centers, and other home based businesses. Single family homeowners in the area would be allowed a voice in the granting of a permit through the regular planning and zoning hearing process. If the special use permit is granted, it is usually up for a review every couple of years allowing the city to measure the effects on neighborhoods.

As with other permits granted, the city will have requirements on parking, noise abatement, the maximum number of overnight guests allowed on the property, and other issues related to short term rentals. Inspections regarding fire safety and health related issues might be imposed as they are for traditional lodging properties. Smoke detectors, escape routes, fire suppression equipment, exterior signage, swimming pool regulations, and other issues should be addressed during the permitting process. Cities should provide for citations for violations including verified complaints of neighboring residences.

If there is a higher concentration of short-term rentals within a certain area of a city, decision makers might create a short-term rental overlay zone with the same requirements imposed with special use permits.

Third party management companies often act as the agent renting short-term properties. While the local ordinances regulating these properties are shouldered by the owner, the collection and remittance of the tax usually lies with these companies. Cities should require a tax return be filed either monthly or quarterly regardless of the rental income derived during that period. Some major rental companies simply want to send the city one check each month or quarter for all units rented. Cities should either require a separate return per property, or one tax return with a list file of each and every unit rented. Cities must know the rental income and business activity of each property. Finally, cities must never give up their right to exam any short-term rentals, including those managed by third party companies.

Cities can maximize their hotel occupancy tax collections and establish a strong compliance ethic by following these simple guidelines. These increased HOT revenues will help improve not only your community's cultural and special event programs, but also drive future dollars with a growing and thriving hospitality industry.

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