

Burnet County Hotel Occupancy Tax

As per SB No. 234, (17) a county that has a population of 34,000 or more and borders Lake Buchanan may collect hotel occupancy tax in the county, however the tax does not apply to a hotel located in a municipality that imposes a tax under Chapter 351 applicable to the hotel. (4/03)

A Regulation entitled "Occupancy Tax", containing therein definitions; levying a tax equal to five percent (5%) of the consideration of the cost of occupancy of any room or space in any hotel with certain exceptions; providing for collection; requiring reports; authorizing the Commissioner's Court to make rules and regulations and the County Tourism Director to enforce said rules and regulations; describing violations; providing for penalties; providing for an effective date; and providing for severability.

Be it regulated by the Commissioner's Court of Burnet County, Texas:

SECTION 1. DEFINITION: The following words, terms, and phrases are, for the purpose of this Ordinance, except where the context clearly indicates a different meaning defined as the following:

- (a) "Hotel": The following businesses are considered "hotels" and are required to charge the tax: a hotel, motel, tourist home, tourist court, lodging house, inn, rooming house, or bed and breakfast. Hospitals, sanitariums, nursing homes, and dormitories or other non-hotel housing facilities owned by institutions of higher education may not charge the tax.
- (b) "Consideration": The tax may be imposed against any "person" (including corporations and other legal entities) who pay for the use of a room in a hotel. The price of the room does not include the cost of food served by the hotel or the cost of other personal services.
- (c) "Occupancy": Unlike the state hotel occupancy tax, the local hotel occupancy tax may only be assessed against the use of a room that is ordinarily used for sleeping.
- (d) "Occupant": shall mean anyone person, including corporations and other legal entities, who pay for the use of a room in a hotel.
- (e) "Tourism Director" shall mean the Burnet County Tourism Director or her/his designated agent(s) or agencies.
- (f) "Quarterly Period" shall mean the regular calendar quarters corresponding with the County's fiscal year beginning in October of each year. The first quarter being composed of the months of October, November, December; the second quarter being composed of the months of January, February, March; the third quarter being composed of the months of April, May, June; and the fourth quarter being composed of the months of July, August, September.
- (g) "Permanent Resident" shall mean any occupant who has or shall have the right to occupancy of any room(s) or sleeping space or other facility in a hotel for at least thirty(30) consecutive days during the current calendar year or preceding year.

SECTION 2. LEVY OF TAX; RATE; EXCEPTIONS:

- (a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel in Burnet County, outside the city limits of Marble Falls, Burnet, and Bertram, where such cost of occupancy is at the rate of Two Dollars (\$2) or more per day, such tax to be equal to 5% of the consideration paid by the occupant of such room to such hotel.
- (b) Hotel operators are authorized to retain 1% of the amount of the hotel occupancy tax collected as reimbursement for the costs of collecting the tax.
- (c) Texas statutes allow an exemption from the hotel tax for persons who have contracted to use a hotel room for more than 30 consecutive days. Additionally, the hotel occupancy tax does not apply to certain federal and other high level officials traveling on federal business. Rather than paying the hotel tax, federal employees, foreign diplomatic personnel, and certain high-level state employees simply present a tax exemption certificate to the hotel.

Additionally, officers or employees of a state agency, institution, board, or commission who are traveling on official business are also exempt from the tax. However, such state employees must still pay the hotel occupancy tax when paying their bill. The state and local government then refund the hotel occupancy tax to the exempt employer through a separate process.

It should be noted that city and county officers and employees are not exempt from the state or local hotel occupancy tax even if the officers or employees are traveling on official business. Similarly, employees of institutions of higher education also are not exempt from the tax. Burnet County may not authorize additional exemptions from the hotel occupancy tax per the Attorney General ruling, JM-865 (1988).

SECTION 3. COLLECTION:

Every person owning, operating, managing or controlling any hotel, shall collect the tax imposed in Section 2 hereof for the County of Burnet. The hotel occupancy tax is paid by the hotel customer to the hotel.

SECTION 4. REPORTS:

On the last day of the month following each Quarterly Period, every person required hereby to collect the tax imposed by this Regulation shall file a report with the Burnet County Treasurer showing the consideration paid for all room occupancies in the preceding quarter, the amount of tax collected on the County's behalf on such occupancies, and any other information as the Burnet County Treasurer may reasonably require. Such person shall pay over the tax due on such occupancies at the time of filing such report. There shall also be furnished to the Burnet County Treasurer at the time of payment of such tax, a copy of the Quarterly Tax Report filed with the State Comptroller in connection with the State of Texas Hotel Occupancy Tax.

SECTION 5. RULES AND REGULATIONS:

The Burnet County Tourism Director shall have the authority to enforce rules and regulations as set by Burnet County Commissioner's Court, as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records necessary to enable her/him to determine the correctness of any report filed as required by this Regulation and the amount of taxes due under the provisions of this Regulation.

SECTION 6. PENALTIES:

The local hotel occupancy tax statutes provide for specific penalties that may be assessed against hotel operators who fail to report or to pay taxes when due or who file fraudulently.

Burnet County imposes a penalty of 5 percent of the amount of the taxes due, if the hotel operator fails to file report and make payment by the last day of the month following each quarterly period. If the hotel operator fails to file the report or to pay the tax within 31 days, then an additional 5 percent penalty will be assessed. After 60 days, interest at a rate of 10 percent will also be added to the taxes and accrued penalties owed.

Burnet County may request hotel occupancy tax audit information from the State Comptroller. The County will keep such information confidential and use the information only for enforcement or administration of the county's hotel tax.

SECTION 7. VIOLATIONS:

Burnet County Attorney will take the following actions against a hotel operator who fails to report or collect the local hotel occupancy tax:

- ◆ Require the forfeiture of any revenue the county allowed the hotel operator to retain for its cost of collecting the tax;
- ◆ bring a civil suit against the hotel operator for noncompliance;
- ◆ ask the district court to enjoin operation of the hotel until the report is filed and/or the tax is paid; and
- ◆ any other remedies provided under Texas law that are applicable to counties and this tax.

The most noteworthy of these remedies is the ability of the county to request that the district court close down the hotel if the hotel occupancy taxes are not turned over.

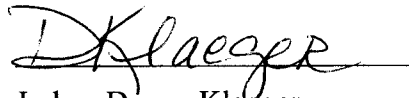
SECTION 8. EFFECTIVE DATE:

This Regulation shall become effective on April 1, 2004.

SECTION 9. SEVERABILITY:

In any provision, section, sentence, clause, or phrase of this Regulation, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid or unenforceable, the validity of the remaining portions of this Regulation or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Burnet County Commissioner's Court in adopting, and of the Administrative County Judge in approving this Regulation, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

PASSED and APPROVED by Burnet County Commissioner's Court this 17th day of February, 2009.


Judge Donna Klæger

ATTEST:

County Clerk: 
Janet Parker