

ARTICLE II: HOTEL OCCUPANCY TAX

Statutory reference:

Authority to levy, see Tex. Tax Code Ch. 351

§ 32-16 DEFINITIONS.

The following words, terms or phrases are, for the purpose of this article, except where the context clearly indicates a different meaning, defined as follows.

BUSINESS DAY. A day on which City of Fort Worth main offices are open for business and shall not include Saturdays, Sundays, City of Fort Worth holidays or other days on which city offices have been declared closed for business.

CONSIDERATION. The total price of, or total value received for, the right to use a room, sleeping room, sleeping space, bed or dormitory space, or other facilities in such hotel and shall not include the price or value of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy, and shall not include any tax assessed for occupancy thereof by any other governmental agency.

DUE DATE. The first business day following the end of the monthly collection/reporting period.

HOTEL. Any building or buildings, trailer, railroad pullman not being utilized for the transportation of travelers or any other facility in which the public may, for a consideration, obtain sleeping accommodations. The term shall include, hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, trailer houses, trailer motels, railroad pullman cars parked on a siding or other area and used for sleeping accommodations not involving the transportation of travelers, dormitory space where bed space is rented to individuals or groups, apartments not occupied by permanent residents as that term is hereinafter defined, and all other facilities where rooms or sleeping facilities or open space is furnished for a consideration, but **HOTEL** shall not be defined so as to include hospitals, sanitariums or convalescent or nursing homes.

MONTHLY COLLECTION/REPORTING PERIOD. The regular calendar months of the year. The last day of each month marks the end of the **MONTHLY COLLECTION/REPORTING PERIOD**.

OCCUPANCY. The use or possession, or the right to the use or possession of any room, space or sleeping facility in a hotel for any purpose.

OCCUPANT. Anyone who, for a consideration, uses, possesses or has a right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

PERMANENT RESIDENT. Any occupant who has or shall have the right to occupancy of any room or rooms, sleeping space or facility in a hotel for at least 30 consecutive days during the current calendar year or preceding year.

PERSON. Any individual, company, corporation or association owning, operating, managing or controlling any hotel.

TAX ASSESSOR-COLLECTOR. The tax assessor-collector of the city.

(1964 Code, § 19A-1) (Ord. 6542, § 1, passed 8-30-1971; Ord. 20486-11-2012, § 1, passed 11-6-2012)

Cross-reference:

Definitions and rules of construction generally, see § 1-2

§ 32-17 LEVY; RATE; DISPOSITION OF REVENUES; EXCEPTIONS.

(a) There is hereby levied a tax upon the cost of occupancy of any sleeping room or space furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day, such tax to be equal to 9% of the consideration paid by the occupant of such room or space to such hotel, exclusive of other occupancy taxes imposed by any other governmental agencies.

(b) All revenues from the hotel occupancy tax shall be expended as provided by state law.

(c) No tax under this article shall be imposed upon a permanent resident.

(d) The amount of revenue from the tax that is derived from the application of the tax at a rate of more than 7% of the cost of a room, and any interest income therefrom, shall be used only for the construction of an expansion of an existing convention center facility, for a qualified project to which Section 351.1015, Texas Tax Code, applies, or for pledging payment of revenue or revenue refunding bonds issued in accordance with state law for the construction of the expansion of an existing convention center facility or for a qualified project. The city shall attempt to include minority-owned businesses in the issuance of at least 32% of the total dollar value of the bonds issued, and in at least 32% of the total fees paid by the issuer, in connection with the construction.

(1964 Code, § 19A-2) (Ord. 6542, § 1, passed 8-30-1971; Ord. 7969, § 2, passed 9-4-1979; Ord. 8900, § 1, passed 8-23-1983; Ord. 10120, § 1, passed 6-2-1988; Ord. 10858, § 1, passed 6-11-1991; Ord. 13245, § 1, passed 11-18-1997; Ord. 21934-09-2015, § 1, passed 9-29-2015)

§ 32-18 COLLECTION; WHEN DUE; REMITTANCE; DELINQUENCY; INTEREST.

(a) Every person owning, operating, managing or controlling any hotel shall collect the tax imposed in § 32-17 of this article for the city and remit the same to the tax assessor-collector on or before the due date, and at the same time file the report required by § 32-19 herein.

(b) (1) A delinquency occurs if, by the twenty- fifth day of the month after the end of the monthly collection/reporting period:

- a. The tax is not remitted or postmarked; or
- b. The report is not filed or postmarked.

(2) If the twenty-fifth day of the month does not fall on a business day, then the next business day shall be the date by which the tax must be remitted or postmarked and the report must be filed or postmarked.

(c) A late penalty equal to 15% of the total tax owed shall be assessed if the person fails to remit the tax or have it postmarked and/or file the report or have it postmarked by the twenty-fifth day of the month following the end of the monthly collection/reporting period. If the twenty-fifth day of the month does not fall on a business day, then the next business day shall be the date by which the tax must be remitted or postmarked and the report must be filed or postmarked. A late penalty shall be in addition to any criminal penalties imposed for a violation of this article.

(d) Delinquent taxes shall accrue interest in the amount of 10% per annum each month the taxes are not remitted when due.

(1964 Code, § 19A-3) (Ord. 6542, § 1, passed 8-30-1971; Ord. 20486-11-2012, § 2, passed 11-6-2012)

§ 32-19 MONTHLY REPORTS.

On the first day of the calendar month following each monthly collection/reporting period, every person required in § 32-18 to collect the tax imposed in this article shall file a report with the tax assessor-collector showing the consideration paid for all room occupancies in the preceding month, the amount of the tax collected on such occupancies, and any other information the tax assessor-collector may reasonably require. Such person shall remit the tax due on such occupancies at the time of filing such report.

(1964 Code, § 19A-4) (Ord. 6542, § 1, passed 8-30-1971; Ord. 20486-11-2012, § 3, passed 11-6-2012)

§ 32-20 RULES AND REGULATIONS; INSPECTION OF RECORDS.

The tax assessor-collector shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied in this article and shall, upon reasonable notice, have access, at a location within the corporate limits of the City of Fort Worth, to books and records necessary to enable the tax assessor-collector to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article.

(1964 Code, § 19A-5) (Ord. 6542, § 1, passed 8-30-1971; Ord. 20486-11-2012, § 4, passed 11-6-2012)

§ 32-21 CRIMINAL PENALTIES.

If any person shall fail to collect the tax imposed in this article, or shall fail to file a report as required in this article, or shall fail to remit to the tax assessor-collector the tax as imposed in this article when such report or remittance is due, or shall file a false report, then such person shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished as provided in § 1-6 of this code.

(1964 Code, § 19A-6) (Ord. 6542, § 1, passed 8-30-1971; Ord. 13245, § 2, passed 11-18-1997; Ord. 20486-11-2012, § 5, passed 11-6-2012)

§ 32-21.1 CIVIL COLLECTION PROCEDURES.

(a) The assessor-collector shall refer any hotel occupancy tax account that has a balance that is more than 90 days past due to the city attorney, or other attorney acting for the city, to institute collection proceedings. The city attorney, or other attorney acting for the city, shall be authorized by this ordinance to file suit to enjoin the hotel owner, operator, manager and other persons in control from operating any hotel in the City of Fort Worth until the tax is remitted in full and/or the report is filed, as applicable, as provided in the court's order. In the event collection proceedings are instituted under this provision, in addition to the amount of any tax and/or penalty owed under this article, the person is liable to the city for:

(1) The city's reasonable attorney's fees;

(2) The costs of an audit conducted under § 32-20, as determined by the city using a reasonable rate, but only if:

a. The tax is at least two complete fiscal quarters past due at the time the audit is conducted; and

b. The city has not received a disbursement from the comptroller as provided by Tex. Tax Code § 156.2513 related to the person's concurrent state tax delinquency described by Tex. Tax Code § 351.008.

(3) A penalty equal to 15% of the total amount of the tax owed if the tax has not been remitted for at least one complete municipal fiscal quarter after its due date.

(b) The remedies provided by this section are in addition to other available remedies.

(Ord. 13245, § 3, passed 11-18-1997; Ord. 20486-11-2012, § 6, passed 11-6-2012)

Editor's note:

This section was designated as § 32-22 when enacted by Ord. 13245. It was redesignated by the editor in order to avoid conflicting with previously existing material. The section was subsequently amended under its current section number, as shown in the history note above.

§ 32-21.2 COLLECTION PROCEDURES ON PURCHASE OF HOTEL.

(a) If a person who is liable for the remittance of a tax under this article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to remit the amount due until the seller provides a receipt by an individual designated by the city to provide the receipt showing that the amount has been remitted or to issue a certificate showing that no tax is due.

(b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this section is liable for the amount required to be withheld to the extent of the value of the purchase price.

(c) The purchaser of a hotel may request that the individual designated by the city to provide a receipt under subsection (a) above issue a certificate stating that no tax is due or issue a statement of the amount required to be remitted before a certificate may be issued. The individual designated by the municipality shall issue the certificate or statement not later than the sixtieth day after the date that the individual receives the request.

(d) If the individual designated by the city to provide a receipt under subsection (a) above fails to issue the certificate or statement within the period provided by subsection (c) above, the purchaser is released from the obligation to withhold the purchase price or remit the amount due.

(Ord. 13245, § 4, passed 11-18-1997; Ord. 20486-11-2012, § 7, passed 11-6-2012)

Editor's note:

This section was designated as § 32-23 when enacted by Ord. 13245. It was redesignated by the editor in order to avoid conflicting with previously existing material. The section was subsequently amended under its current section number, as shown in the history note above.