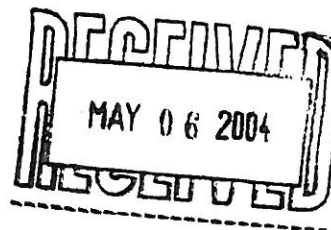


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May 5, 2004

Pete Phillis
City of Mansfield
1200 E. Broad Street
Mansfield, Texas 76063

RE: Uses of Municipal Hotel Occupancy Tax

Dear Pete:

The following information is a revision of my letter to Clay Chandler dated August 11, 2003 regarding the permissible uses of Municipal Hotel Occupancy Tax, as authorized by Chapter 351 of the Texas Tax Code.

In order to expend Hotel Occupancy Tax revenue, each expenditure must meet a two part test:

TEST #1:

First, the expenditure may only be used to promote tourism and the convention and hotel industry. Essentially, the expenditures must be likely to attract visitors from outside the City into the City or its vicinity. If the expenditure is not reasonably likely to accomplish this result, it may not be made out of hotel occupancy tax revenue. The hotel occupancy tax may not be used for general revenue purposes or to pay City expenses not directly related to increasing tourism.

TEST #2:

Second, the expenditure must fit into one or more of the following six statutorily authorized categories:

- (1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

The definition of "civic center" includes civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. The term also includes parking

areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The Attorney General has concluded, however, that the expenditure of hotel occupancy tax on recreational facilities such as a tennis court or a golf course is not permitted under this category. The City may pledge hotel occupancy revenue towards the payment of bonds issued under Chapter 1504 of the Government Code, for convention center facilities.

- (2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

This category permits a municipality to expend funds solely to fund the administrative and facility expenses directly related to a specific convention.

- (3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the City or its vicinity.

The City may expend hotel occupancy funds on attracting visitors from outside the City into the City or its vicinity. Such funds may not be used to for economic development purposes or to attract new business or permanent residents to the City. Such funds may arguably be used to attract visitors from outside the City to an event, which event, in and of itself does not qualify for funding with hotel occupancy dollars.

- (4) 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 these major art forms;

This category authorizes expenditures for all of the above referenced forms of art. Arguably included in this category is the right to expend hotel occupancy funds to develop or enhance the physical facilities to accommodate these art forms.

- (5) 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:

- (A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

- (B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

Note that this category does not require that historical restoration and preservation projects, which are funded by hotel occupancy tax, be in physical proximity to a convention center.

- (6) expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity;

The Legislature amended the population limitation to permit cities lying wholly or partially in counties with a population of 290,000 or less to use hotel occupancy tax to fund the above referenced activities. The prior limitation was 65,000. This category allows the City to fund the advertising and promotion of such events as high school baseball or youth softball tournaments or marathons and other running events, provided that the majority of participants are tourists. Keep in mind that statute does not prevent hotel occupancy taxes from being collected in those parts of the City lying in Tarrant County to be used for activities under this category, nor does it prohibit the expenditure of such funds for the promotion of sporting events located in Tarrant County. Mansfield has met the population limitation by virtue of lying partially in Johnson County and/or partially in Ellis County.

ADMINISTRATIVE EXPENSES:

Chapter 351 authorizes a municipality to expend hotel occupancy tax to cover administrative expenses directly attributable to the implementation of programs or improvements falling under one the six categories listed above. Administrative expenses include supplies, salaries, office rental and travel expenses. With that said, hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of tourism and the convention and hotel industry or the performance of the person's job in an efficient and professional manner.

ALLOCATION OF HOTEL OCCUPANCY TAX REVENUE:

Because the City of Mansfield collects hotel occupancy tax revenue in excess of three percent (3%) of the cost paid for a hotel room, the following revenue allocation rules apply:

- | | |
|--|--|
| (1) Convention Center
or visitor information center | No restriction (if no money is
allocated for acquiring, constructing,
improving, maintaining, or operating a |
|--|--|

	Convention center no more than 50% of total tax revenue may be spent on historical restoration and preservation projects.)
(2) Convention registration	No restriction.
(3) Tourism related advertising and promotions	At least 1% of the cost of the room.
(4) Programs enhancing the arts	A maximum of 15% of the total revenue produced by the tax or the amount of tax generated by the city that is equal to one percent of the cost of the room, whichever is greater.
(5) Historic Preservation	No limit (however, if no money is allocated for acquiring, constructing, improving, maintaining, or operating a convention center; limit is 50% of total tax revenue).
(6) Sporting Event Promotion	No restriction.

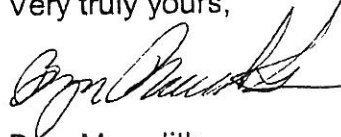
CONCLUSION:

- All expenditures of municipal hotel occupancy tax revenue must meet both of the two tests detailed above.
- The City may finance the administrative expenses associated with the administration and implementation of approved programs and improvements, however, non-related administrative expenses may not be financed with hotel occupancy tax revenue.
- As a city with a population of under 125,000 and a tax rate in excess of three percent of the total room rate, the statutory revenue allocation guidelines set out above must be strictly adhered to.

May 5, 2004
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I have attempted to address only the issue of how municipal hotel occupancy revenue may be used. I have not addressed issues relating to the imposition, collection and third party administration of the tax. Should you have any questions relating to these topics please feel free to contact me.

Very truly yours,



Bryn Meredith

BM

cc: Betsy Elam
Allen Taylor
Taylor, Olson, Adkins, Sralla & Elam, L.L.P.