



MEMO

To: CMO Team

FROM: Rebecca Ybarra, Director of Destination Services

DATE: May 19, 2020

RE: Area City Hotel Occupancy Tax (HOT) Reporting Policy

The following information is in support of a request to change the current City of San Marcos Hotel Occupancy Tax (HOT) Reporting Policy. The request was made by the San Marcos Hotel Owners group who met with City Manager Bert Lumbreras and Economic and Development Manager Scott Hardwick.

On April 7, City Council approved an ordinance to temporarily wave late charges and fees for delinquent payments due April 20, May 20 and June 20. An extension of this temporary waiver is scheduled for action on the June 16 council agenda. This extension will continue to offer hotels relief until a permanent change of payment policy is approved.

Below are the HOT reporting policies for Austin, Buda, Kyle, New Braunfels, San Antonio and San Marcos. Five of six cities impose penalties immediately after the due date. Penalty percentages vary from five to fifteen percent. State of Texas allows for each community to set penalties of up to 15% for payments not received on the due date. (EXHIBIT A)

The State of Texas Tax Code offers the option for municipalities to collect hotel occupancy taxes on a monthly or quarterly basis. San Marcos City Council adopted a change to the reporting cycle from quarterly to monthly in December 2013 (Ordinance No. 2013-67).

The State of Texas Comptroller HOT Payment Policy is also included below. A discount of one percent of the tax due per reporting cycle is offered for those who pay State taxes before the due date. (EXHIBIT B)

The Hotel Owners Group, representing more than 50% of all properties in San Marcos, requested a change to reporting policy to mirror that of the City of New Braunfels.

The Convention and Visitor Bureau hosts weekly with the San Marcos Hotel Owners group to discuss the current climate, marketing ideas and to share operational best practices. With the input from the hotel owner group, a recommendation for City Council's consideration is included. (EXHIBIT C)

EXHIBIT A

Area City	Reporting Cycle	Due Date	Late Payment Penalties	Post COVID19 Report Policy
Austin	Quarterly	Last day of month	5% penalty if submitted at least 1 day after due date (End of the next month – Apr 30, Jul 31, Oct 31, Jan 31); 5% penalty if submitted more than 60 days after due date; 10% interest per annum if submitted more than 60 days after due date	“SUSPEND all deadlines imposed by City Code, ordinance rule, or other regulation until May 30, 2020.” Quarterly Report date due April 30 is now due May 30, 2020.
Buda	Monthly	20th of month	5% penalty if submitted at least 1 day after due date (20th of next month); Additional 5% penalty for each 30 Days	60-day deferral of hotel occupancy tax payments for March 20, 2020 and April 20, 2020, with an additional offering of forgiving up to \$5,000 of deferred HOT payments (\$45,000 available for hotel occupancy tax forgiveness)
Kyle	Quarterly	Last day of month	5% penalty if submitted at least 1 day after due date (End of the next month); Additional 1% penalty per month	There are no changes to current policy.
New Braunfels	Monthly	20th of month	1st day - \$50 penalty 31st day - \$75 penalty 61st day - \$100 penalty 91st day - 15% penalty of the assessed Hotel Occupancy Tax, plus separate misdemeanor charges for failure to file and pay	Waive all late fees associated with delinquent filings. Applies to February 2020 taxes moving forward
San Antonio	Monthly	21st of month	5% penalty if paid during the second month following the reporting period. Additional 5% penalty if paid during third month following the reporting period; Late penalties capped at 10%; Interest accrues at a rate of 10% per annum if paid during or after the second month following the report period; Interest continues to accrue each month until taxes are paid in full	
San Marcos	Monthly	20th of month	15% penalty of the assessed HOT is due in addition to the amount of tax owed if taxes are postmarked/paid after the due date; additional charge of 1% per month of the total amount due, including penalties, will be assessed if payment is not received within 60 days of the due date (City of San Marcos Code of Ordinances Subpart A. Chapter 78, Article 5. Sec. 78.102)	Waive all late fees and penalties associated with delinquent filings; applies to payments due April 20, May 20 and June 20. Valid for 90 days per each report

EXHIBIT B

State of Texas	Cycle	Due Date	Late Payment Penalties	
Comptroller	Monthly or Quarterly	20th of month or each calendar month or calendar quarter	1st day - \$50 penalty 1st day – 5% penalty of the assessed Hotel Occupancy Tax 31st day - 10% penalty of the assessed Hotel Occupancy Tax 61st - Interest penalty (prime rate plus one percent)	<i>Texas Tax Code Sec. 351.005</i> 1% discount of the HOT due per reporting cycle if paid on or before due date.

EXHIBIT C Recommendation

<i>San Marcos</i>	Cycle	Date	Late Payment Policy	Support
<i>August 2020-September 2023</i>	Monthly	20th of month	1st day - \$50 fee 31st day - \$75 fee 61st day - \$100 fee 91st day - 10% penalty of the assessed Hotel Occupancy Tax	Most pay on time. When they do not pay on time, they only need a month or two to catch up. Exception is in extreme circumstances like current one.
<i>Beginning October 2023</i>	Monthly	20th of month	1st day - \$100 fee 31st day - 10% penalty of the assessed Hotel Occupancy Tax	
<i>1% Discount</i>	Monthly	20th of month	1% discount of the HOT due per reporting cycle if paid on or before due date.	<i>Texas Tax Code Sec. 351.005</i>

The request is a two-phase request. First phase is August 2020 through September 2023. Projections of recovery take us through Summer of 2023. This mirrors New Braunfels' current policy. This will allow hotels to catch up on payments after a devastating 2020. Phase two will begins during a new fiscal year and what we anticipate is post recovery.

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Texas Tax Code Sec. 351.005. REIMBURSEMENT FOR EXPENSES OF TAX COLLECTION AND USE OF ELECTRONIC TAX ADMINISTRATION SYSTEM.

(a) A municipality may permit a person who is required to collect and pay over to the municipality the tax authorized by this chapter to withhold not more than one percent of the amount of the tax collected and required to be reported as reimbursement to the person for the cost of collecting the tax.

(c) The municipality may provide that the reimbursement provided or required by this section be forfeited because of a failure to pay the tax or to file a report as required by the municipality