

Scott Joslove

From: Bill Longley
Sent: Monday, May 13, 2019 5:30
To: PM Scott Joslove
Subject: HOT Issues

Scott,

Thanks for your call. Please see below.

1. There are certain cities such as the Cities of Houston, Irving, and Plano that have special statutes regarding the amount that the city can expend on the arts from local hotel tax.
2. However, for the remainder of Texas cities with over 200,000 population, such as the City of Austin, state law provides a 15 percent cap on expenditure of local hotel tax for the arts.
3. Similarly, for all Texas cities with over 200,000 population, there is also a 15% cap on expenditures of local hotel tax for historical restoration and preservation.
4. Once a city's expenditures of local hotel tax reach that 15% cap on expenditures for the arts or the 15% cap for historical restoration and preservation, a City may not expend local hotel tax for projects which would fairly fit under that respective category of directly and primarily promoting the arts or directly and primarily accomplishing historical restoration and preservation.
 - a. For example, if an expenditure is to provide funding to market a variety of arts programs, it is likely that it would be considered to directly fit within the category for "promotion of the arts" and would be subject to the 15% cap on expenditures for the arts.
 - b. This can be distinguished from a city pursuing a general tourism advertising campaign that happens to in part include an arts facility in the tourism marketing piece. In such a case, the marketing is not designed to primarily promote the arts, and therefore would not likely be found to violate the 15% cap on expenditures for the arts.
 - c. Another example in play could include a convention center facility that is funded under the convention center category. Such facilities may be used in part for arts events. However, state law provides that local hotel tax can only be used under this category for facilities that are part of the convention center complex (within 1,000 feet of a convention center) and the facility in question is primarily used for conventions and meetings of tourists. Therefore, if the facility in question does not meet that test, local hotel tax could not be used for that purpose under the convention center category.
 - d. In a nutshell, a city can not use the alternative categories for uses of the local hotel tax to circumvent the 15% caps on expenditures for the arts or the 15% cap on expenditures for historical restoration and preservation as noted above.
5. It can further be noted that eligible central municipalities are permitted to expend up to 15 percent of the local hotel tax rate that the City levies under Chapter 351 of the Tax Code for promotion of the arts and up to 15% percent of the local hotel tax for historical restoration and preservation.
 - a. The 15 percent cap on the amount for the arts or historical purposes is generally calculated as 15% of the total amount generated in local hotel tax from the seven percent local hotel tax rate.
 - b. However, if an eligible central municipality, such as the City of Austin, uses its authority under Tax Code Section 351.1065 to adopt a 9 percent local hotel tax rate for purposes of expanding its convention center, the City could:
 - i. spend up to 15% of the total amount that is generated from the 9 percent local hotel occupancy tax rate for promotion of the arts.
 - ii. spend up to 15% of the total amount that is generated from the 9 percent local hotel occupancy tax rate for historical restoration and preservation.

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