

AN ACT

relating to the statute of limitations on municipal and county hotel occupancy taxes and interest on delinquent payments of municipal hotel occupancy taxes and to the use of revenue from those taxes by certain municipalities to audit taxpayers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 351.004, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) The municipality may bring suit against a person who is required to collect the tax imposed by this chapter and pay the collections over to the municipality, and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the person from operating a hotel in the municipality until the tax is paid or the report filed, as applicable, as provided by the court's order. In addition to the amount of any tax owed under this chapter, the person is liable to the municipality for:

(1) the municipality's reasonable attorney's fees;

(2) the costs of an audit conducted under Subsection (a-1)(1), as determined by the municipality using a reasonable rate, but only if:

(A) the tax has been delinquent for at least two complete municipal fiscal quarters at the time the audit is conducted; and

1 (B) the municipality has not received a
2 disbursement from the comptroller as provided by Section 156.2513
3 related to the person's concurrent state tax delinquency described
4 by Section 351.008; ~~and~~

5 (3) a penalty equal to 15 percent of the total amount
6 of the tax owed if the tax has been delinquent for at least one
7 complete municipal fiscal quarter; and

8 (4) interest under Section 351.0042.

9 (b) Except as provided by Subsection (b-1), a municipality
10 must bring suit under this section not later than the fourth
11 anniversary of the date the tax becomes due. [~~Section 16.061, Civil~~
12 ~~Practice and Remedies Code, applies to the collection of a tax under~~
13 ~~this chapter. A limitation period provided by Title 2 relating to~~
14 ~~the time allowed to assess taxes and bring a suit to collect taxes~~
15 ~~does not apply to a tax imposed under this chapter or to a suit~~
16 ~~brought under this section.~~]

17 (b-1) The limitation provided by Subsection (b) does not
18 apply and a municipality may bring suit under this section at any
19 time if:

20 (1) with intent to evade the tax, the person files a
21 false or fraudulent report with the municipality; or

22 (2) the person has not filed a report for the tax with
23 the municipality.

24 SECTION 2. Subchapter A, Chapter 351, Tax Code, is amended
25 by adding Section 351.0042 to read as follows:

26 Sec. 351.0042. INTEREST ON DELINQUENT TAX. (a) A person
27 who fails to pay a tax due under this chapter is liable to the

1 municipality for interest on the unpaid amount at the greater of the
2 rate provided by Section 111.060(b) or the rate imposed by the
3 municipality on January 1, 2013.

4 (b) Interest under this section accrues from the first day
5 after the date due until the tax is paid.

6 SECTION 3. Subchapter B, Chapter 351, Tax Code, is amended
7 by adding Section 351.1067 to read as follows:

8 Sec. 351.1067. ALLOCATION OF REVENUE; CERTAIN
9 MUNICIPALITIES. (a) This section applies only to a municipality
10 that has a population of at least 190,000, no part of which is
11 located in a county with a population of at least 150,000.

12 (b) Notwithstanding any other provision of this chapter, a
13 municipality to which this section applies may use revenue from the
14 municipal hotel occupancy tax to conduct an audit of a person in the
15 municipality required to collect the tax authorized by this
16 chapter, provided that the municipality use the revenue to audit
17 not more than one-third of the total number of those persons in any
18 fiscal year.

19 SECTION 4. Section 352.004, Tax Code, is amended by adding
20 Subsections (d-1) and (d-2) to read as follows:

21 (d-1) Except as provided by Subsection (d-2), a county must
22 bring suit under this section not later than the fourth anniversary
23 of the date the tax becomes due.

24 (d-2) The limitation provided by Subsection (d-1) does not
25 apply and a county may bring suit under this section at any time if:

26 (1) with intent to evade the tax, the person files a
27 false or fraudulent report with the county; or

1 (2) the person has not filed a report for the tax with
2 the county.

3 SECTION 5. The change in law made by this Act does not
4 affect tax liability accruing before the effective date of this
5 Act. That liability continues in effect as if this Act had not been
6 enacted, and the former law is continued in effect for the
7 collection of taxes due and for civil and criminal enforcement of
8 the liability for those taxes.

9 SECTION 6. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1724 was passed by the House on May 2, 2013, by the following vote: Yeas 147, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1724 on May 22, 2013, by the following vote: Yeas 148, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1724 was passed by the Senate, with amendments, on May 20, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor