

Harris County Auditor's Office



MEMORANDUM

To: Ann Harris Bennett, Harris County Tax Assessor – Collector & Voter Registrar
Lina Hidalgo, County Judge
Rodney Ellis, Commissioner Precinct 1
Adrian Garcia, Commissioner Precinct 2
Tom Ramsey, Commissioner Precinct 3
Lesley Briones, Commissioner Precinct 4
Christian Menefee, County Attorney

From: Mike Post, Harris County Auditor *MP*
Errika Perkins, Chief Assistant County Auditor – Audit Division *EP*

CC: Wendy Caesar, Chief Deputy
Samantha Kealoha, County Judge's Office
Brandon Dudley, Commissioner Precinct 1
Mike Lykes, Commissioner Precinct 2
Lynn Blue, Precinct Commissioner 3
Alice Lee, Precinct Commissioner 4
Jonathan Fombonne, County Attorney's Office
Daniel Ramos, Office of Management and Budget

RE: Hotel Occupancy Tax Revenue Collections

Date: September 22, 2023

EXECUTIVE SUMMARY

The Harris County Auditor's Office – Internal Audit Division has completed a review of the Hotel Occupancy Tax (HOT) Revenue Collections process. The purpose of this engagement was to determine if a sample of hotels and motels operating within Harris County (County) jurisdiction are submitting HOT to the Harris County Tax Assessor-Collector & Voter Registrar (Tax Assessor). A subsequent HOT review has been added to the Internal Audit Division's FY2024 Audit Plan to audit the financial records of additional hotels.

The engagement's scope was to perform the following objectives for the period of January 1, 2022, through December 31, 2022:

1. Determine whether the County's hotel occupancy taxpayers were registered in the Appraisal & Tax Collections system (ACT), and
2. Ascertain whether HOT calculations were accurately and timely submitted to the County.

Recommendations for the Tax Assessor include the following:

- Obtain a Voluntary Collection Agreement (VCA) for unregistered online lodging accommodation platforms, such as HomeAway/VRBO.
- Implement a policy that governs online lodging accommodation platforms, Registered Hosts¹, and their HOT responsibilities.
- Follow up with each business identified that underreported HOT to the County.
- On a sample basis, verify the accuracy and completeness of HOT reported by businesses to the County.

¹ A Registered Host is someone who lists their space on their Airbnb account and is responsible for collecting HOT on Airbnb rentals.

BACKGROUND

All hotels and motels, regardless of size, must collect an occupancy tax from their guests. The purpose of the local HOT is to fund and support the promotion of tourism, conventions, and the hotel industry. The total tax collected by the hotel/motel is a combination of State, City, and County, as well as Houston Sports Authority occupancy taxes. The County Tax Assessor collects the HOT for the County and the Houston Sports Authority.

State of Texas Tax Code §352.002 (a) establishes authority for the imposition and collection of Local Hotel Occupancy Taxes and states, “The commissioners courts (...) by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping.” State of Texas Tax Code, Chapter 334: Sports and Community Venues, Subchapter A: General Provisions is the statutory basis for collection of a Sports and Community Venues Tax.

Per the August 29, 2023 Commissioners Court order levying 2024 Hotel Occupancy Tax, “the owner or operator of each hotel shall collect, report and send the taxes collected to the Harris County Tax Assessor-Collector on or before the last day of the month following the end of each calendar quarter in accordance with procedures established by the Harris County Tax Assessor-Collector.”

Pursuant to section 352.004(e) of the Texas Tax Code, if a person required to file a tax report does not file the report as required, Harris County is authorized to determine the amount of tax due under this chapter by conducting an audit of each hotel in relation to which the person did not file the report as required. Harris County shall provide at least 30 days' written notice to a person who is required to collect the tax imposed by this chapter with respect to a hotel before conducting an audit of the hotel.

Airbnb’s software platform allows third parties (“Hosts”) to rent sleeping accommodations to the public, and as a result the rental properties are subject to HOT as defined in the State of Texas Tax Code Chapter 156.

RESULTS

OBJECTIVE 1: Determine whether the County’s hotel occupancy taxpayers are registered in the ACT system.

OBSERVATION 1.1: The Auditor’s Office reviewed all hotels or motels reporting HOT to the Texas Comptroller of Public Accounts and located within the County. We identified 16 hotels or motels that were not registered with the County for HOT. These 16 hotels or motels reported \$1.9 million in taxable receipts to the Texas Comptroller of Public Accounts for HOT in calendar year 2022. As a result, the County may be eligible to collect approximately \$76,000 in unreported HOT.

During fieldwork, the Tax Assessor immediately began pursuing 4 of the 16 hotels that they confirmed should be reporting HOT.

RECOMMENDATION 1.1: The Tax Assessor should evaluate the remaining list of the 16 hotels or motels and validate whether HOT registration is required and contact these businesses to obtain registration for the County’s HOT.

OBSERVATION 1.2: The Auditor’s Office identified 8 out of 10 online lodging accommodation platforms that provide lodging within the County that were not registered with the County for HOT. In addition, 1 of the 8 online

lodging accommodation platforms, HomeAway/VRBO reported \$19 million in taxable receipts to the Texas Comptroller of Public Accounts for HOT. This could potentially result in \$1 million of unreported HOT to the County.

RECOMMENDATION 1.2: The Tax Assessor should evaluate the online lodging accommodation platforms identified and validate whether HOT registration is required and subsequently contact these businesses to obtain registration for the County's HOT. In addition, the Tax Assessor should collaborate with the County Attorney's Office to determine whether a VCA for the collection of HOT is required for the online lodging platforms.

The Tax Assessor should consider analyzing online lodging accommodation platforms that provide lodging within the County but are not registered for HOT with the County to identify additional tax collections. If existing resources limit the Tax Assessor ability to perform additional analyses, temporary resources or collaboration with the Auditor's Office Data Analytic team should be considered.

During our review, we were informed that the Tax Assessor is working with the County Attorney's Office to obtain a VCA for the collection of HOT from HomeAway/VRBO.

OBSERVATION 1.3: During an examination of Airbnb records, we identified 61 Registered Hosts that were not registered for HOT with the County. These Airbnb Registered Hosts collected a total of \$5.5 million in taxable receipts. This could potentially result in \$220,000 of unreported HOT to the County.

The Tax Assessor does not have any policies that govern online lodging accommodation platforms Registered Hosts and their HOT responsibilities. Currently, the County has a VCA with Airbnb. However, there were no agreements with Airbnb Registered Hosts, and consequently, some Hosts were not remitting HOT to the County.

RECOMMENDATION 1.3: The Tax Assessor should implement a policy that defines online lodging accommodation platforms, Registered Hosts, and their HOT responsibilities. The Tax Assessor should consider adopting the Texas Comptroller of Public Accounts ruling that states, "On May 1, 2017, Airbnb began collecting and remitting Texas state hotel occupancy taxes on behalf of all hosts for all bookings on the Airbnb website from that date forward." For the ruling, search the Texas Comptroller of Public Accounts STAR System for 2020003027L or access the information at this link: [STAR: State Automated Tax Research for the State of Texas](#)

OBJECTIVE 2: Ascertain whether HOT calculations are accurately and timely submitted to the County.

OBSERVATION 2.1: The Auditor's Office selected a registered hotel and completed an audit of the HOT financial records for the Extended Stay America Houston-Katy located at 19998 Park Row Drive, Katy, TX 77449. The audit period was July through December 2022. We found the hotel underreported taxable sales and identified \$44,925.11 of HOT collected by the hotel but not reported to the County.

The Auditor's Office issued a notification letter of the audit and the Tax Assessor's Certified Tax Statement of the tax deficiency, penalties, and interest on 9/15/2023 and requested the business to file an amendment of their HOT report information and accurately report and remit their taxes due within 30 days of the notification.

RECOMMENDATION 2.1: The Tax Assessor should follow up with the business to ensure they file an amendment to the reported information and accurately report and remit the taxes due. In addition, the Tax Assessor should analyze and verify the accuracy of the HOT reported to the County. If existing resources limit the Tax Assessor's ability to perform additional analyses, temporary resources or collaboration with the Auditor's Office or Universal Services Data Analytic team should be considered.

OBSERVATION 2.2: The Auditor's Office selected a registered hotel and completed an audit of the HOT financial records for the Hyatt Regency Houston Galleria located at 2626 Sage Road, Houston, TX 77056. The audit

period was July through December 2022. We found the hotel underreported taxable sales and identified \$60,549.84 of HOT collected by the hotel but not reported to the County.

The Auditor's Office issued a notification letter of the audit and the Tax Assessor's Certified Tax Statement of the tax deficiency, penalties, and interest on 9/15/2023 and requested the business to file an amendment of their HOT report information and accurately report and remit their taxes due within 30 days of the notification.

RECOMMENDATION 2.2: The Tax Assessor should follow up with the business to ensure they file an amendment to the reported information and accurately report and remit the taxes due. In addition, the Tax Assessor should analyze and verify the accuracy of the HOT reported to the County. If existing resources limit the Tax Assessor's ability to perform additional analyses, temporary resources or collaboration with the Auditor's Office or Universal Services Data Analytic team should be considered.

Internal Audit Standards

We conducted our engagement in accordance with the International Standards for the Professional Practice of Internal Auditing (Standards). The Standards require that we comply with the Code of Ethics and obtain reasonable assurance that significant risks to the activity are minimized to an acceptable level.