



The Attorney General of Texas

December 22, 1982

See 60-88-58

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Opinion No. MW-528

Re: Applicability of Hotel
Occupancy Tax imposed by
chapter 156 of the Tax Code
to state employees traveling
on state business

Dear Mr. Haley:

You have requested our opinion on the following question relating to the Hotel Occupancy Tax:

Is a state official or state employee traveling at state expense on the official business of a state agency exempt from the payment of the Hotel Occupancy Tax imposed by chapter 156 of the Texas Tax Code?

Our answer is that no such exemption exists. In Attorney General Opinion WW-738 (1959) this office held that the Hotel Occupancy Tax applies to officers and employees of the Federal Reserve Bank while traveling on official business of the bank.

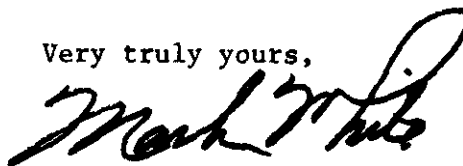
The tax is imposed upon the person who contracts for the space to be used. Tax Code §156.051. The exceptions to the tax apply only to permanent residents and religious, charitable, or educational organizations. Tax Code §§156.101-.102. Under these code provisions neither a state agency nor an employee of a state agency is exempt. There is no constitutional prohibition against the legislature levying an excise tax to be paid by the state and its agencies. Attorney General Opinion WW-1502 (1962) determined that motor fuel purchased by the state for use of the Texas National Guard while on active state duty under command of the governor of Texas would be subject to the motor fuel excise tax imposed by chapter 9 of Title 122A, Taxation-General.

We therefore conclude that there is no exemption from the Hotel Occupancy Tax accorded to an official of a state agency or employee of a state agency contracting for space.

S U M M A R Y

The Hotel Occupancy Tax applies to a state official or state employee traveling at state expense on the official business of a state agency.

Very truly yours,



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