

MISCELLANEOUS REVENUE				
Revenue Description	Taxable Yes or No	Tax Type	Additional Comments	Authority
<i>Note: Commissions paid to the hotel by outside vendors are not subject to tax.</i>				
Gift Shop:				
1. Retail Video Rentals	Yes	Sales	Rentals of tangible personal property are taxable.	Tex. Tax Code §§151.005(2), 151.009, 151.010, and 151.051; 34 Tex. Admin. Code §3.294
2. Retail Food Sales	Yes	Sales	Collect sales tax on sales of prepared food (food sold ready for immediate consumption, food heated, or food sold with eating utensils), candy, individual ice cream sundries, and bakery items sold with plates or utensils.	Tex. Tax Code §§151.005(6) and 151.314; 34 Tex. Admin. Code §3.293
3. Retail Beer/Wine Sales (gift shop not covered by a mixed beverage or private club permit)	Yes	Sales	When beer and wine are sold by a gift shop, the gift shop must collect sales tax and not mixed beverage taxes. The gift shop must have the appropriate permit from the Texas Alcoholic Beverage Commission (TABC) to sell beer and wine.	Tex. Tax Code §151.005(6); 34 Tex. Admin. Code §3.293
5. Retail Clothing Sales	Yes	Sales	Sales of tangible personal property are taxable.	Tex. Tax Code §§151.005(1), 151.009, 151.010, and 151.051; 34 Tex. Admin. Code §3.286
6. Newspapers	No		Newspapers with an average sales price of \$3.00* or less per copy over a 30-day period are exempt. <i>*Average sales price of \$1.50 or less before Sept. 1, 2013.</i>	Tex. Tax Code §151.319; 34 Tex. Admin. Code §3.299
7. Periodicals	Yes	Sales	Non-subscription sales of magazines, news journals, and other periodicals that do not meet the definition of an exempt newspaper are taxable.	Tex. Tax Code §151.320; 34 Tex. Admin. Code §3.299
Miscellaneous Sales:				
8. Telephone Commissions from Pay Phones	No		Commissions paid to the hotel by the telephone company are not subject to tax.	
9. Prepaid Telephone Cards	Yes	Sales	The sale of a prepaid telephone card is the sale of tangible personal property and the hotel should collect sales tax on the price charged for the card.	Tex. Tax Code §§151.009, 151.010, and 151.051; 34 Tex. Admin. Code §3.344
10. Fax Charges	Yes*	Sales	A charge to send a fax is the sale of a telecommunications service and the hotel should collect sales tax on the charge. <i>*A charge to receive a fax is taxable only when the fax originated in Texas.</i>	Tex. Tax Code §§151.0101(a)(6), 151.0103(a), and 151.323(a); 34 Tex. Admin. Code §3.344

This publication is intended as a general guide and not as a comprehensive resource on the subjects covered. It is not a substitute for legal advice.

11. Photo Copier Charges	Yes	Sales	A charge for a copy is the sale of tangible personal property and the hotel should collect sales tax on the price charged for the copy.	Tex. Tax Code §151.005(1); 34 Tex. Admin. Code §3.286
12. Audiovisual (AV) Equipment Rental:				
a. Hotel owns AV equipment provided to guests using banquet rooms	Yes	Sales and Hotel Occupancy	Hotel should collect sales tax on separately stated charges for AV equipment when the hotel rents meeting or banquet rooms in the hotel and provides food. If the hotel does not provide food or the charge for the banquet room is a lump sum charge that includes food, AV Equipment, and the rental of the banquet room, the hotel should collect hotel tax.	Tex. Tax Code §§151.007(a)-(b), 151.009, 151.010, 151.051, and 156.051; 34 Tex. Admin. Code §§3.162 and 3.293
b. AV company owns AV equipment provided to guests using banquet rooms	Yes	Sales and Hotel Occupancy	The hotel and AV company generally have a written agreement or authorization that the hotel is the AV company's billing and collecting agent. If so, as the agent for the AV company, the hotel must collect sales tax on the charge to the guest for the rental of the AV equipment from the AV company.	Tex. Tax Code §151.052(b)
13. Vending Machine Sales				
a. Hotel maintains machine	Yes	Sales	Hotel must remit tax on total gross receipts from sales of soft drinks and candy; hotel must remit tax on 50% of total gross receipts from sales of food products (e.g., chips, crackers, pretzels, milk, tea, coffee, and juice even if the juice is more than 50% vegetable or fruit juice by volume). Bottled water is not taxable.	Tex. Tax Code §151.007(d); 34 Tex. Admin. Code §3.293(d)
b. Vendor maintains machine	Yes	Sales	Vendor is responsible for tax, reported as described in Item 13.a. above.	
15. Lease of Real Property				
a. Space in hotel lobby	Yes*	Hotel Occupancy	State hotel tax (not local hotel tax) is imposed when a person pays for the use or possession or for the right to the use or possession of a room or space in a hotel costing \$15 or more each day. *Providing lobby space to a person or organization for less than \$15 a day, such as space for a registration table, is not taxable.	Tex. Tax Code §156.051(a)
b. Space for restaurant	No	Hotel Occupancy	An individual or business that has the right to use or possess a room in a hotel for at least 30 consecutive days (e.g., one-year lease) is exempt from hotel tax.	Tex. Tax Code §156.101; 34 Tex. Admin. Code §3.161
c. Space for gift shop	No	Hotel Occupancy		