Chapter 35

TAXATION

Section 35-19. Taxation of Tangible Personal Property in Transit.

Chapter 35

TAXATION

Sec. 35-1. Seal of tax receiver's office.

The seal of the tax receiver's office in the city shall be the coat of arms of the State of Texas in a circle, with the words, "Collector of Taxes, City of Temple," engraved around the margin thereof and with the letters "T-E-X-A-S" engraved between the five (5) points of the coat of arms and inside of the engraving on the margin.

Sec. 35-2. Adoption of state law relative to adjustment of assessments.

House Bill No. 456, adopted by the 46th Legislature of the State of Texas at its regular session, amending Article 7345 of the Revised Civil Statutes of the State of Texas of 1925, as amended, by adding thereto another section to be known as 7345d, is hereby adopted and made applicable to the city, provided that nothing herein shall be construed as authorizing the board of appraisement and equalization or the board of commissioners to remit any penalty, interest or costs that have accrued, but all such penalties, interest and costs shall be collected on the adjusted assessment of any and all property as is or may be authorized by existing law and/or ordinances. The board of appraisement and equalization shall perform the functions conferred in said House Bill on the commissioners court of a county.

Sec. 35-3. Occupation taxes.

There shall be and is hereby levied, and there shall be collected from every person pursuing any occupation now or hereafter taxed by the general laws of the state, and which occupation is permitted to be taxed by cities, an annual occupation tax equal in each instance to one-half (2) of the state occupation tax, which taxes shall be paid annually in advance, except where otherwise provided by the state law, in which event the same may be paid as is provided by the state law. Such occupation taxes shall be payable to and collectible by the controller of the city.

Sec. 35-4. Sales and use tax-Adoption.

(a) There came on to be considered the returns of an election held on the fifth day of December, 1967, upon the question of the adoption of a local sales and use tax for the benefit of said city in accordance with the provisions of House Bill No. 207, 60th Legislature, Regular Session, 1967, and it appearing that said election was in all respects legally held and that said returns were duly and legally made and that there were cast at said election seventeen hundred eighty-two (1,782) votes, of which number fifteen hundred forty-four (1,544) votes were cast "FOR adoption of a one percent local sales and use tax within the City," and two hundred thirty-eight (238) votes were cast "AGAINST adoption of a one percent local sales and use tax within the City," and said question or proposition having been approved by fifteen hundred forty-four (1,544) votes.

(b) The majority of the qualified voters having voted for the adoption of said local sales and use tax, the said tax is hereby imposed in said city and shall become effective as provided in said House Bill 207, and the city secretary is hereby instructed to forward to the comptroller of public accounts, State Capitol, Austin, Texas, by registered or certified mail a certified copy of this chapter and a map of this city clearly showing the boundaries thereof.

Sec. 35-5. Same-Continuance.

(a) The tax heretofore imposed by the city pursuant to the provisions of the Local Sales and Use Tax Act is hereby continued on the sale, production, distribution, lease or rental of and the use, storage of other consumption of gas and electricity for residential use.

(b) The sale, production, distribution, lease or rental of and the use, storage or other consumption of gas and electricity for residential use shall not be exempt from the tax imposed by the city under the Local Sales and Use Tax Act.

(c) The city secretary is hereby directed to transmit, on or before April 1, 1979, a certified copy of this section by registered or certified mail to the comptroller of public accounts of the State of Texas.

Sec. 35-6. Homestead exemption-Granted; additional exemption.

(a) *Terms defined*. The term *residence homestead*, and other terms used herein, shall be defined and have the same meanings given to those terms as in Section 11.13 of the Property Tax Code of the State of Texas, V.A.T.C.S.

(b) *Exemption established***.** There is hereby established for adult residence homestead owners who are sixty-five (65) or older a ten thousand dollar ($10,000.00) exemption from ad valorem taxation of the appraised value of the residence homestead of an adult residence homestead owner who is sixty-five (65) or older to be effective starting in the tax year 1984 in accordance with the requirements of Article 11.13 of the Property Tax Code.

(c) *Additional exception.* In addition to the above exemption, there is hereby established and adopted an exemption from ad valorem taxation in the amount of twenty (20) percent of the appraised value of the residence homestead of any residence homestead owner within the City of Temple to be effective starting in the tax year 1984; provided, however, in no event shall this exemption amount to less than five thousand dollars ($5,000.00) of the appraised value in any tax year when applied to a particular residence homestead in accordance with subsection N of Section 11.13 of the Property Tax Code.

Sec. 35-7. Same-Proof of eligibility.

In order to secure the benefit of the exemption, the owner shall, between January 1st and April 30th of each year, file with the city tax assessor collector, a sworn inventory of such property owned on January 1st of each year for which the exemption is claimed, and shall initially furnish proof of age by a sworn affidavit stating the age of such claimant on the 1st day of January of the year such exemption is initially claimed and a statement setting forth the family relationship for which said residential homestead exemption is claimed. The tax assessor-collector may provide such forms and require such other information needed for the implementation of claiming the above exemption by said claimants, including, but not limited to, further proof of age of claimant.

Sec. 35-8. Hotel occupancy tax-Definitions.
The following words, terms and phrases are for the purposes of section 35-8 through 35-15, except where the context clearly indicates a different meaning, defined as follows:

(a) *Hotel* shall mean any building, buildings or parts thereof in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, mobile homes, inns, rooming houses, trailer houses, trailer motels, railroad Pullman cars parked on a siding, apartments not occupied by "permanent residents," as that term is hereinafter defined, and all other buildings where rooms or sleeping facilities are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums or nursing homes.

(b) *Consideration* shall mean the cost of the room or other facility in such hotel only if the room or other facilities are ordinarily used for sleeping. This term shall not include the cost of any food served or personal services rendered to the occupant of the room not related to the cleaning and readying of the room for occupancy.

(c) *Occupancy* shall mean the use or possession, or the right to use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if the occupant's use, possession, or right to use or possession extends for a period less then thirty (30) days.

(d) *Occupant* shall mean anyone, who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms of facilities in a hotel under any lease, concession, permit, right or access, license, contract, or agreement if the room or facility is ordinarily used for sleeping.

(e) *Person* shall mean any individual, company, partnership, corporation, association, or other entity owning, operating, managing, or controlling any hotel.

(f) *Calendar quarter* shall mean a period of three (3) consecutive months of the year.

(g) *Permanent resident* shall mean any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or facility in hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

(h) *City tax* assessor-*collector* shall mean the tax assessor and collector for the City of Temple.

Any other terms or phrases used herein shall be defined and construed in accordance with the definitions and usages given those terms and phrases under Article 1269j-4.1, Texas

Annotated Civil Statutes.

Sec. 35-9. Hotel Occupancy Tax—Levy, Rate, Exceptions.

(a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel, where the cost of occupancy is at a rate of two dollars ($2.00) or more per day. The tax is hereby set and established at seven (7) percent of the consideration paid by the occupancy of such room, space or facility to such hotel, exclusion of other occupancy taxes imposed by other governmental agencies.

(b) No tax shall be imposed hereunder upon a permanent resident of a hotel.

(c) No tax shall be imposed on employees of the United States government, including military personnel, traveling on official business.
(Section 35-9 amended by Ordinance No. 2009-4324, 11-05-09)

Sec. 35-10. Collection; reimbursement fee.

(a) Every person owning, operating, managing, or controlling any hotel shall collect the tax imposed in section 35-9 hereof for the City of Temple, except that any such person shall withhold from the payment to the city, as reimbursement for the cost of collecting the tax, an amount not to exceed one percent of the amount of tax collected and required to be reported herein. Such reimbursement shall be automatically forfeited upon the failure to pay the tax or to file reports as required by section 35-11.

(b) The one percent reimbursement fee as provided herein shall become effective only on those amounts due and payable after the effective date of this chapter.

Sec. 35-11. Reports; payment of occupancy tax.

(a) A person required to collect the tax imposed by this chapter shall pay the tax collected during the preceding reporting period and at the same time shall file with the Director of Finance a report stating:

(1) the total amount of the payments made for rooms at the person's hotel during the preceding reporting period;

(2) the amount of the tax collected by the person during the preceding reporting period; and

(3) other information that the Director of Finance requires to be in the report.

(b) Each calendar month is a reporting period and the taxes imposed by and collected under this chapter are due and payable to the Director of Finance on or before the 20th day of the month following the end of each calendar month.

Sec. 35-12. Rules and regulations.

The City Manager of the City of Temple shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to all books and records necessary to enable him to determine the correctness of any report filed as required by section 35-11 and the amount of taxes due under the provisions of section 35-9. Provided, however, that no rules and regulations hereunder shall be inconsistent with this chapter or inconsistent with the provisions of Article 1269j-4.1 of Vernon's Annotated Texas Civil Statutes.

Sec.35-13. Use of proceeds from hotel occupancy tax.

The revenue derived from the occupancy tax levied hereunder may only be used for:

(1) The acquisition of sites for the construction, improvement, enlarging, equipping, repairing, operation and maintenance of convention center facilities including, but not limited to, civil center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) The furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;

(3) The advertising for general promotional and tourist advertising of the city and its vicinity, and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city;

(4) For the payment of bonds which the city may issue for the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention facilities including; but not limited to: civic center convention buildings, auditoriums, coliseums, civic theaters, museums, and parking areas of facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities.

Sec. 35-14. Special fund.

All proceeds from the hotel occupancy tax hereby levied shall be held and set aside in a special fund to be used exclusively for the expansion, promotion, retirement and service of debt, operation, advertisement, repair, maintenance, acquisition of necessary capital improvements and equipping of the Frank W. Mayborn Civic and Convention Center of the City of Temple, Texas; or any similar civic and convention center facility which may hereafter be constructed in accordance with the purposes set forth in section 35-13 herein. To the extent that said tax revenues are not expended for operational, capital or debt service in the year received, they shall be accrued as reserves and thereafter expended solely for the purposes herein provided. Provided, however, that the placing of any said funds in a "treasury fund" established by the controller of the City of Temple, so long as accounting procedures established by the city controller maintain a separate account for these proceeds and assure that the funds will not be dispersed for any purposes not set forth in this chapter, shall not be considered a violation of this section.

Sec. 35-15. Penalties for violation of sections 35-8 through 35-14.

(a) If any person required by the provisions of sections 35-8 through 35-13 to collect the tax imposed herein, or make reports as required herein, shall fail to collect such tax, file such report, or pay such tax, or if any such person shall file a false report or commit any other violations of this section, such person shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not to exceed five hundred dollars ($500.00), and shall pay to the city the tax due for each thirty (30) days that the same is not timely filed.

(b) If any person shall fail to file a report as required herein or shall fail to pay to the city tax assessor-collector the tax as imposed herein when said report or payment is due, he shall forfeit five (5) percent of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five (5) percent of such tax as an additional penalty and not as interest. Provided, however, that the penalty shall never be less than one dollar ($1.00). Delinquent taxes shall draw interest at the rate of six (6) percent per annum beginning sixty (60) days from the date due. Provided, however, no penalty or interest charged hereunder shall ever be in excess of the amount of penalty or interest allowed by law.

(c) The tax assessed, together with any penalties provided by statute, shall be a prior and superior lien on all property of the hotel.

Sec. 35-16. Additional legal remedies.

(a) The penalties provided for herein shall be cumulative of all other remedies provided by state law and the power of injunction; as provided by applicable sections of the Texas Civil Statutes as they may now read or afterwards be amended, may be exercised in enforcing this chapter whether or not there has been a criminal complaint filed.

(b) The City of Temple hereby retains any and all remedies, both at law and at equity, which it may have to enforce provisions of this act including the right to bring suit against any person who is required to collect the tax imposed by section 35-9 or Article 1269j-1.4, Vernon's Annotated Civil Statutes and to pay the collections over to the city and who has failed to file a report or pay the tax when it is due to enjoin the person from operating a hotel in the city until the tax is paid or the report is filed or both, as applicable and as provided in the injunction.

Sec. 35-17. Additional penalty on delinquent ad valorem taxes.

(a) That in addition to penalty and interest incurred on delinquent ad valorem taxes pursuant to Section 33.01 of the Property Tax Code, there shall be imposed an additional penalty in the amount of fifteen (15) percent of the delinquent tax, penalty and interest that remains delinquent on July 1st of the year in which the tax became delinquent in accordance with Section 33.07 of the Property Tax Code.

(b) That the additional penalty shall be applied only to taxes which become delinquent during 1987 or subsequent years.

(c) That the additional penalty shall not be imposed unless a notice of delinquency and of the additional penalty is delivered to the property owner at least thirty (30) and not more than sixty (60) days before July 1 of the year the tax became delinquent.

(d) That an attorney or law firm that collects delinquent taxes under a contract with the city shall reimburse the city for use of facilities such as office space, computer terminals and supplies, telephone use and access to tax files in an amount established in the contract. The amount of reimbursement may be established as a percentage of the additional collection fee due the attorney under the contract.

Sec. 35-18. Taxation of telecommunications services.

(a) A tax is hereby authorized on all telecommunications services in consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

(b) The application of the exemption provided for in Article 321.210(a) of the Texas Tax Code, V.A.T.C.S. is hereby repealed by the City of Temple, Texas, as authorized by Section 4(b) thereof.

(c) The rate of tax imposed by this section shall be the same as the rate imposed by the City of Temple, Texas, for all other local sales and use taxes as authorized by the legislature of the State of Texas.

(d) The city secretary shall forward to the comptroller of the State of Texas by United States registered or certified mail a certified copy of this chapter along with a copy of the minutes of the City Council's vote and discussion on this section.

(e) This section shall become effective as of November 3, 1988.

Section 35-19. Taxation of Tangible Personal Property in Transit.

(a) ***Definitions.*** The following terms have the same meaning as defined in Section 11.253 of the Texas Tax Code, as amended.

(1) The terms “Dealer’s motor vehicle inventory,” “dealer’s vessel and outboard motor inventory,” “dealer’s heavy equipment inventory,” and “retail manufactured housing inventory” have the meanings assigned by Subchapter B, Chapter 23 of the Texas Tax Code, as amended.

(2) The term “Goods-in-transit” is defined to mean tangible personal property that:

a. is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

b. is detained at a location in this state in which the owner of the property does not have a direct or indirect ownership interest for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property;

c. is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

d. does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(3) The term "Location" means a physical address.

(4) The term "Petroleum product" means a liquid or gaseous material that is an immediate derivative of the refining of oil or natural gas.

(b) A person is not entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit. A person's property consisting of goods-in-transit is hereby subject to ad valorem taxation pursuant to Section 11.253 of the Texas Tax Code, as amended.
(Ordinance No. 2007-4779, 12-06-07)