Pennsylvania
Restaurant & **Lodging**
Association

Act 18 of 2016
Frequently Asked Questions

Gov. Wolf recently signed House Bill 794 into law. HB 794 is now known as Act 18 of 2016. It enables an increase in the local hotel occupancy tax from 3 percent to 5 percent for 57 counties while ensuring the tax is used properly for tourism promotion. **Act 18 is effective immediately.**

1. **What does Act 18 do?**

   Act 18 is a comprehensive hotel tax reform bill that contains the following key provisions:

   - Enables an increase in the local hotel occupancy tax for 57 counties from 3 percent to 5 percent.
   - Expands the definition of what is considered taxable.
   - Places requirements on grants.
   - Clarifies the proper uses of the tax.
   - Creates a decertification process for TPAs.

2. **What counties are impacted by Act 18?**

   Counties included in the previous section 1770.2: Blair, Cambria, Centre, Chester, Indiana, Lancaster, Lycoming, Mercer and York.

   Counties included in the previous section 1770.6: Armstrong, Beaver, Bedford, Bradford, Butler, Cameron, Carbon, Clarion, Clearfield, Clinton, Columbia, Crawford, Cumberland, Elk, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Jefferson, Juniata, Lawrence, Lebanon, McKean, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland and Wyoming.

   Second class A counties moved to Section 1770.12 from Title 53: Bucks, Delaware and Montgomery

3. **What if my county is not listed?**

   You are not impacted by any of the changes made in Act 18. Your existing local hotel tax bill remains untouched.

4. **I saw something about Dauphin County—what was that?**

   There was a tweak to Dauphin County's hotel tax language that allows the percentage of hotel tax revenue that currently goes to a sports facility of 10,000 seats or more to also be used for a sports facility of 2,100 seats or more. There is no change to the way the existing funds are divided up; it's only expanding the number of sports facilities that can receive funds.

5. **Do Bucks, Delaware and Montgomery counties still have convention center funding?**

   Yes—convention center funding remains unchanged. The only thing that was changed for these counties was enabling an increase of up to 5 percent and including the same changes regarding the funds that go to the TPAs as were made to the other counties.

6. **What does enabling an increase mean?**

   Currently, your county is capped at 3 percent maximum for local hotel taxes. Act 18 allows county commissioners to increase this tax via a resolution.

7. **What if we don't want to increase our tax?**

   You are not required to increase your tax or make any changes to the current use of your tax unless you are in violation of the new definitions and requirements of the law.

8. **What if I'm unhappy with the way the funds are currently being used but the county doesn't want to make changes?**

   Contact the PRLA. We are here to help guide you through the process and facilitate a conversation with your county leadership, as needed, to ensure these funds are used appropriately.

9. **How are the funds collected and distributed?**

   Local hotel taxes are collected by the country treasurer. The treasurer then turns 96 percent of the funds over to the TPA. The county may keep 4 percent for processing.

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10. **What happens to the agreement with my county that it can keep a certain percentage to use for a grant program?**

According to the law, all money needs to be given to the TPA and if the TPA feels that a certain percentage should go back to the county to be distributed as grants that directly benefit tourism, then the TPA may do so. The goal here is to ensure that the TPA is making the decisions that the funds are being used with the end goal in mind—putting heads in beds.

11. **What are the definitions relating to the use of the tax?**
    - Marketing the area served by the agency as a leisure travel destination. *(Unchanged from previous law.)*
    - Marketing the area served by the agency as a business, convention, or meeting travel destination. *(Combines two sections of previous law but unchanged.)*
    - Using all appropriate marketing tools to accomplish these purposes, including, but not limited to, advertising, publicity, publications, direct marketing, sales, technology and participation in industry trade shows that attract tourists or travelers to the area served by the agency. *(Slight change from previous law.)*
    - Programs, expenditures or grants that are directly and substantially related to tourism or a business, convention or meeting travel destination within the county augment and do not compete with private sector tourism or travel efforts and improve and expand the county as a destination market as deemed necessary by the recognized TPA.
    - Any other tourism or travel marketing or promotion program, expenditure or project that does not compete with private sector tourism or travel efforts as deemed necessary by the TPA.

12. **What are the biggest things to keep in mind relating to the new definitions of the tax?**
    1. The local hotel tax funds cannot be used fund something that competes with private sector tourism or travel efforts.
    2. The TPA, not the county, needs to determine what is a valid use of the tax.

13. **Why are grants included in the act?**

Many counties currently have a grant program in place, and those programs are, in most cases, valid, useful and will carry on. Including grants in the bill allows us to clarify how they must be used.

14. **What other requirements are there for an entity to receive a grant?**
    - All grants must have a 25 percent cash or in-kind match.
    - Grants cannot be used for signage that promotes a specific private entity, except where the signage also carries the logo of the recognized tourism promotion agency.

15. **Can a grant or a portion of the hotel tax revenue go to a for-profit entity?**

There are no requirements that a recipient of a grant must be a non-profit entity. If a grant is given to a for-profit entity, then that entity cannot compete with private sector tourism efforts.

Example 1: A county wants to build a sports facility because it wants to draw more groups and the county does not currently have a facility.

Example 2: A county wants to build a hotel connected to a sports facility and wants to use the tax to help fund the building of the hotel or supplement operations would be an invalid use of the tax.

16. **Are there any changes to what is considered taxable?**

Cabins on public or private campgrounds that are permanent structure with beds and running water are now considered taxable under the local hotel occupancy tax. No other part of a campground is taxable.

17. **Would cabins on wheels be taxable?**

Since wheels, even ones that are not working, would make a structure NOT permanent, it would not be taxable.

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18. **Would the tax apply to the people who rent out their RVs?**

    Since an RV is not a permanent structure, it is not taxable.

19. **Would cabins on federal land be taxable?**

    Yes, the federal government allows state and local occupancy tax to be assessed on structures on federal land.

20. **What else is exempt from the local hotel occupancy tax?**
    - A charitable institution
    - Permanent residents
    - A college or university residence currently occupied by students enrolled in a degree program
    - An educational or religious institution camp or a registered camp
    - A hospital
    - A nursing home
    - Any part of a campground that is not a cabin

21. **What camps are considered exempt?**

    An educational or religious institution camp for children, including a camp registered under the Act of November 10, 1959, entitled "an act for providing for the annual registration of organized camps for children, youth and adults."

22. **Where can I find out if a camp is registered?**

    Camps that are longer than 5 days must register with the Department of Health annually for a fee of $10. There are about 600 camps that register every year and each receives a certificate that you can use to verify their exemption.

23. **What are the financial requirements of the TPA?**

    An audit or financial statement must be submitted to the county within 90 days of the end of the TPA's fiscal year. If an audit or financial statement is not submitted, the county may take the hotel tax funds and place them in a special account until the financial statement is remitted. If an audit or financial statement is not submitted within 120 days, DCED may order the county to place the funds in a special account until the financial statement is submitted.

24. **If hotel tax revenues are placed in a special account, can the county access and use that revenue?**

    No, hotel tax dollars can only go to the certified TPA. If the county goes through the process of decertifying an existing TPA, the funds would be turned over to the newly certified TPA. The county may not keep or do anything with the funds except turn them over to the certified TPA.

25. **What happens if a hotel does not remit the hotel occupancy tax?**

    A 1.5 percent penalty per month will be assessed on lodging properties that do not remit the tax. The county may also file a lien against the property.

26. **What if my county has stricter penalties on hotels than those outlined in the bill?**

    A county may not have a stricter penalty than is included in the legislation.

27. **What changes have been made regarding conflicts of interest?**

    If a board member, officer or employee or an immediate family member of a board member, officer or employee would financially benefit by a decision made by the TPA, they must recuse themselves.

28. **How can a county decertify a TPA?**

    A county must pass a resolution decertifying a TPA. The resolution must be concurred in by resolutions of governing bodies of municipalities that exceed 65 percent of the population.

    The county must also hold a public hearing at least 7 days before adopting a resolution to decertify a TPA.

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29. What happens if a TPA is decertified?

The county must certify another TPA.

30. What if the county does not certify a TPA?

The county should cease accepting local hotel tax room dollars until a new TPA is certified.

31. Who do I contact if I have additional questions about the law?

For additional questions, please contact:

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