

## Texas: Tax relief in wake of Hurricane Harvey



David M. Kall | Friday, September 1, 2017

While Hurricane Harvey was creating disaster areas throughout the state of Texas, Gov. Greg Abbott issued a [proclamation](#) suspending hotel and motel taxes during the hurricane. In so doing, he suspended “all laws authorizing or requiring the collection of state or local hotel or motel occupancy taxes from the victims of Hurricane Harvey or personnel participating in relief operations, for a period of 14 days, beginning August 23, 2017, and ending September 6, 2017.”

The governor also sent a letter to President Donald Trump seeking a [Presidential Disaster Declaration](#), which the Federal Emergency Management Agency (FEMA) promptly [granted](#). This means that affected areas will receive federal individual assistance, public assistance and hazard mitigation.

The comptroller’s [website](#) has additional information pertaining to tax support. This includes an extension of up to 90 days to file tax returns for businesses affected by the declared disaster. The comptroller handles such requests on a case-by-case basis, and businesses must request the assistance.

The website also contains a series of FAQs addressing the hotel tax suspension, sales tax exemptions, and exemptions from Texas licensing and registration requirements under certain circumstances, such as when out-of-state business entities enter Texas at the request of an in-state business entity under a mutual assistance agreement. The firm’s business in Texas must be limited to performing disaster- or emergency-related work to repair or restore damaged critical infrastructure during the disaster response period in a declared disaster area.

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Additionally, among other information, the website provides the following:

- One can claim exemption from sales tax on the following labor charges by giving the seller an **exemption certificate**:
  - Nonresidential real property with separately stated labor charge
  - Nonresidential real property billed lump-sum (one charge)
  - Personal property
  - Trees
- Sales and use tax is due on the purchase, lease or rental of tools and other equipment that will be used in declared disaster areas except for these situations:
  - Governmental agencies and any nonprofit entities exempt from Texas sales and use tax can claim an exemption from the tax when buying, renting or leasing the equipment in Texas;
  - If a seller or a third-party common carrier delivers equipment to a location outside of Texas, Texas sales and use tax should not be collected;
  - No tax is due on taxable items purchased, leased or rented FEMA or Red Cross debit cards and/or vouchers.
  - Sellers must keep documentation relating to the above situations for four years from the date of sale.
- Disaster victims making purchases with personal funds are not exempt from paying sales tax unless the items will be donated to an entity that is exempt from sales tax prior to any use by the purchaser.
- A school district or a PTA can claim an exemption from sales tax on purchases of school supplies and clothing that will be given to students who are victims of a declared natural disaster.
- Generally, all sales of taxable items are subject to tax, even if all proceeds will be donated to a charity. However, certain events, like bake sales, car washes, and concerts, if admission to the concert is based on donations only, or if the concert is sponsored by a nonprofit organization, can be held as fundraisers that are not subject to tax.
- College or university student organizations affiliated with an institution of higher education can hold a one-day, tax-free sale each month.
- Youth athletic organizations, volunteer fire departments and chambers of commerce cannot hold tax-free sales.

On Aug. 29, 2017, Gov. Abbott **announced** that the Texas Department of Transportation is to receive \$25 million in federal funds to help rehabilitate the state's transportation network. The Federal Highway Administration made the funds available for all counties on the Governor's Disaster Declaration.

The **news** page of the Office of the Governor's website is continually adding new counties to the list of disaster areas authorized to receive resources as the storm unfolds.



**David M. Kall**