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Legal Q&A

By Bennett Sandlin

TML General Counsel

What is the sales tax for property tax relief?

The sales tax for property tax relief is an optional, dedicated-purpose city sales tax. The revenue from the sales tax for property tax relief offsets an equivalent amount of city property tax revenue.

How does the sales tax for property tax relief increase city revenue?

It doesn't. The sales tax for property tax relief merely shifts existing revenue from property taxes to sales taxes. TEX. TAX CODE § 321.507.

What good is the sales tax for property tax relief if it doesn't increase revenue?

Some cities find sales taxes preferable to property taxes for budgetary or political reasons.

For instance, property taxes are paid by citizens of the city only. Sales taxes, however, are also paid by non-citizens, such as tourists or county residents shopping in the city. To the extent that such consumers use city services and infrastructure, many cities believe it is fair for those persons to help pay for a portion of the city's operations.

How much sales tax for property tax relief may be levied by the city?

The rate of a sales tax for property tax relief may be one-eighth, one-fourth, three-eighths, or one-half of one percent of the cost of goods sold within the city that are subject to sales taxes. TEX. TAX CODE § 321.103(b). The combined rate of all local sales taxes within the city, however, cannot exceed two percent. TEX. TAX CODE § 321.101(f).

How is the sales tax for property tax relief enacted?

Like all optional—or dedicated—city sales taxes, the sales tax for property tax relief is adopted by an election of the citizens. An election may be called by the city council on its own motion, or must be called by the council upon receipt of a petition signed by at least five percent of the registered voters in the city. TEX. TAX CODE § 321.401(a) and (d).

How does the sales tax for property tax relief operate to lower property taxes?

Revenues from the sales tax for property tax relief are subtracted from the city's effective and rollback property tax rates calculations. TEX. TAX CODE § 26.041. This has the practical effect of decreasing property tax revenue by an equivalent amount.

If sales tax proceeds exceed the estimate used in calculating the effective and rollback rate discounts, the excess revenues are deposited in a special account and may only be used for debt service. TEX. TAX CODE § 321.507(a).

What is the sales tax for property tax relief also known as?

The Texas Tax Code does not use the term “sales tax for property tax relief.” Instead, the code refers to the “Additional Municipal Sales and Use Tax.” At the end of the sales tax chapter, however, it is explained that the additional sales tax may only be spent to reduce property taxes—hence the common term “sales tax for property tax relief.” TEX. TAX CODE § 321.507.

Our city is “maxed out” at the two percent local sales tax cap. Though we’d like to have a sales tax for property tax relief, we’ve been told in the past that switching from one dedicated sales tax to another is cumbersome and risky. Is this true?

Not any more. TML priority legislation passed in 2005 permits a city to repeal or lower one dedicated sales tax, and raise or adopt a different sales tax, all with one combined ballot proposition. TEX. TAX CODE § 321.409. The fact that this can be accomplished by one combined ballot proposition protects the city’s interest by eliminating the risk that one tax will be voted out by the citizens without the other tax being voted in.

For example, a city with a one-half cent 4B economic development sales tax could use a single ballot proposition to reduce the 4B tax to one-fourth cent and to adopt a one-fourth cent sales tax for property tax relief. If the election were to fail, the city would retain the entire 4B sales tax it previously levied.

How do we word a combined sales tax ballot proposition?

The statute requires that the wording of the combined proposition contain substantially the same language required by law for each of the two taxes individually. TEX. TAX CODE § 321.409(b). To make sure that the city properly words its ballot proposition, local legal counsel should be consulted. At least one Texas city has already taken advantage of this new statute, and the TML Legal Department can provide samples of such combined propositions (please call 512-231-7400).