<u>Budget and Tax Issues (Property, Sales, Hotel Occupancy, etc.)</u>

3/18/2020

Has the Texas comptroller responded to the COVID-19 emergency?

Yes, Texas Comptroller Glenn Hegar issued the following press release related to sales tax deadlines and the pandemic:

As the March 20 monthly sales tax due date approaches, Texas Comptroller Glenn Hegar reminds businesses to use the agency's online tools for tax filing and payment.

"We are committed to the health and safety of taxpayers, members of the community, agency employees and businesses throughout the state," Hegar said. "For that reason, we're urging businesses to make use of the agency's online tools to meet the March 20 deadline and remit taxes collected from Texans in February and held 'in trust' until now."

A suite of online tools to facilitate filing and on-time payment of taxes can be found on the agency's website, and a quick reference site has been set up in response to the COVID-19 emergency. For taxpayers who must visit Comptroller field offices, protocols have been put in place to ensure proper social distancing and protect the safety of both taxpayers and Comptroller employees.

For monthly filers, taxes collected in February must be remitted to this agency by March 20. The agency will in turn remit local sales taxes back to local communities that rely on that revenue to provide day-to-day and emergency services to local residents.

"I know this will be difficult for many businesses, especially small businesses, that are facing a severe downturn in customer activity," Hegar said. "These dollars, however, represent money collected from individual Texans, and Texans expect those dollars to be available to provide emergency health care and support other emergency operations during this difficult time.

"My office is charged with allocating local dollars back to communities fighting on the frontlines of this outbreak. They rely heavily on these dollars to operate hospitals, police, fire and other emergency services. I'm extremely sympathetic to our small businesses struggling through this pandemic, but I ask our partners in the business community to make a good-faith effort to pay taxes held in trust from before the outbreak began impacting their operations.

"This is a complex and rapidly evolving situation. Many of our fellow Texans are facing devastating economic conditions as bars, restaurants, retail outlets and other businesses make difficult staffing decisions. The economic impacts are currently the most visible, but a more pressing concern is simmering behind the economic concerns. A looming health emergency may strain our abilities to provide adequate care and emergency services to our fellow Texans. We must pull together to ensure we can meet the needs we will inevitably face. As part of that pulling together, I ask businesses to remit the taxes they collected from Texans by the established due date.

"We will examine each tax due date as it approaches, and I will keep lawmakers and all stakeholders informed as the agency evaluates rapidly changing conditions."

Taxpayers are strongly encouraged to use online tools, tutorials and other resources for tax services, and establish 24/7 account access on Webfile.

What actions can a city take to assist area hotels impacted by the COVID-19 pandemic?

The hotel industry has been one of the hardest hit due to social distancing precautions taken across the state and nationwide. In most cases, hotels have seen their occupancy rates drop dramatically over the several days. Some hotels are struggling to make payroll because of the lack of revenue.

One option that has been discussed amongst some city officials is to postpone the collection of local hotel taxes for a period of days with no interest or penalties. In a city operating under a local declaration of disaster, the mayor may exercise the powers granted to the governor in a disaster on an appropriate local scale. Tex. Gov't Code § 418.1015(b). Just as the governor has the legal authority to suspend the provisions of regulatory statutes concerning state business if strict compliance with those provisions would prevent or hinder the disaster response, some have argued that a mayor may act similarly for local regulations, like a local hotel occupancy tax ordinance. *See* Tex. Gov't Code § 418.016(a).

A city wishing to take any action that might assist local hotels should only do so after consultation with local legal counsel, and even then, only if that action is appropriate given the unique situation of each community.

3/19/2020

Does the governor's recent COVID-19 disaster declaration potentially impact some cities' tax rate setting procedures in 2020 and 2021 due to new language passed in Senate Bill 2?

Yes. The following questions and answers address only the disaster-related provisions of the bill. The League has also prepared a detailed explanation
of S.B. 2 in general.

Does S.B. 2 make any adjustments to the voter-approval tax rate calculation in a city located in a disaster area?

Yes. Under a statute added by S.B. 2, a city council may direct its designated officer or employee to calculate the voter-approval tax rate in the manner provided for a special taxing unit (an 8 percent rate, instead of a 3.5 percent rate) if any part of the city is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States. Tex. Tax Code § 26.04(c-1). The designated officer or employee shall continue calculating the voter-approval tax rate using 8 percent instead of 3.5 percent until the earlier of:

1. the second tax year in which the total taxable value of property in the city exceeds the total taxable value of property taxable by the city on January 1st of the tax year in which the disaster occurred; or
2. the third tax year after the tax year in which the disaster occurred.

Id.

How does the governor's recent COVID-19 disaster declaration affect the property tax rate adoption process for cities?

The governor's March 13 proclamation declaring a state of disaster in every Texas county due to COVID-19, likely along with the president's proclamation issued the same day, triggered the ability of a city council to calculate its voter-approval property tax rate using an 8 percent multiplier instead of the 3.5 percent multiplier generally required under S.B. 2. Essentially, this means that a city using this disaster exemption to calculate the voter-approval tax rate will be using the same basic formula as the city used for the rollback tax rate prior to S.B. 2's passage and effective date.

As mentioned above, a city using this disaster provision will calculate an 8 percent voter-approval rate for at least two years, and possibly three, depending on how the taxable value of property in the city compares to the taxable value prior to the COVID-19 pandemic on January 1, 2020.

Is a city's ability to use an 8 percent voter-approval rate mandatory?

No, the new voter-approval rate calculation is not mandatory. S.B. 2 gives a city council located in a disaster area the discretion to direct its designated officer or employee to calculate an 8 percent voter-approval tax rate. As always, the city council retains the ability to adopt a rate different than the voter-approval tax rate, whether lower or higher. If the city adopts a rate exceeding the 8 percent voter-approval tax rate, the city will be required to go to the voters at the November election for approval.

A city council wishing to direct the designated officer or employee to calculate an 8 percent voter-approval tax rate should take formal action to do so in order to ensure a record of the council's decision on the matter and to limit any confusion on the part of the person making the calculation.

To be clear, the League takes no position on whether a city should or should not use the higher voter-approval rate calculation allowable in a disaster. Each city is different and will need to make that decision based upon any number of factors, such as the impact of the COVID-19 virus on other sources of local revenue, like sales taxes, the amount of city expenditures made in response to the emergency, as well as the ability and willingness of local taxpayers to potentially pay a higher tax rate.

If a city uses the 8 percent voter-approval rate calculation, when must it adopt its tax rate?

Following the passage of S.B. 2, a city adopting a tax rate exceeding the voter-approval tax rate is required to adopt that tax rate by no later than the 71st day before the November uniform election date. Tex. Tax Code § 26.05(a). In 2020, this date is August 24th.

This statute applies the same to a city that has elected to direct the designated officer or employee to calculate an 8 percent tax rate. Therefore, if a city uses the disaster exemption for calculating the 8 percent voter-approval rate, it must only adopt its tax rate by the August 24th deadline if the city is adopting a rate exceeding the 8 percent voter-approval tax rate. Any rate equal to or less than the 8 percent voter-approval rate may be adopted before the later of September 30th or the 60th day after the certified appraisal roll is received by the city. *Id*.

In what other ways might the governor's disaster declaration impact tax rate adoption?

Another provision imposed by S.B. 2 pertaining to disasters gives cities the ability to avoid an automatic tax rate approval election following certain disasters. When an increased expenditure of money by a city is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that impacted the city and the governor has declared any part of the city as a disaster area, an automatic election is not required to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs. Tax Code § 26.07(b).

This provision was also triggered by the governor's recent disaster declaration. However, it will not impact a city's tax rate setting process this year because it is only effective in the "year following the year in which the disaster occurs." When cities set their 2021 property tax rates next year, this statute will eliminate the automatic election requirement if tax rates exceed the voter-approval tax rate (or the de minimis tax rate for most cities under 30,000 population). Note, however, that this exception only applies if the city makes an increased expenditure of money necessary to respond to the disaster.

Do the disaster exemptions adopted in S.B. 2 impact the new notice and transparency requirements?

No. All of the new notice provisions in S.B. 2 apply the same to cities regardless of the disaster declaration. This includes the applicable requirements related to the property tax database maintained by the county appraisal district, posting requirements for the city website, and requirements to provide new notices related to the tax rate hearing and adoption of the tax rate.

3/24/2020

What happens if our appraisal district is late submitting our certified appraisal rolls this year?

State law generally requires a chief appraiser to submit the certified appraisal rolls to cities by July 25th. Tex. Tax Code § 26.01(a). The certified roll is then used to calculate the city's no-new-revenue tax rate and voter-approval tax rates, among others.

Senate Bill 2 (2019) amends the Tax Code to provide that, if the appraisal review board has not approved the appraisal records by July 20th, the chief appraiser shall prepare and certify to the assessor for each taxing unit an estimate of the taxable value by not later than July 25th. Id. § 26.01(a-1). If a certified estimate is provided instead of a certified appraisal roll, the officer or employee designated by the city council shall calculate the no-new-revenue tax rate and voter-approval tax rate using the certified estimate of taxable value. Id. § 26.04(c-2).

Because the coronavirus will undoubtedly impact the efficiency of appraisal districts to handle property tax protests statewide, many cities should expect to calculate rates based off of the certified estimate instead of the certified appraisal roll. Ideally, either the certified roll or the certified estimate of values is submitted by July 25th to ensure the city has adequate time to calculate rates and comply with the increased transparency requirements under S.B. 2.

Any delay in the submission of the certified roll or certified estimate of value would push back the amount of time the city has to adopt a tax rate that does not exceed the voter-approval tax rate until the 60th day after receipt of the document. Id. § 26.05(a). However, adopting a property tax rate exceeding the city's voter-approval tax rate could be rendered a legal impossibility if the city receives the certified appraisal roll or certified estimate of values late. That's because a city must adopt a rate exceeding the voter-approval rate by no later than the 71st day before the November uniform election date. In 2020, that deadline will be August 24th. Pursuant to his emergency powers, the governor may suspend a deadline imposed by state law related to budget or tax rate adoption. See Tex. Gov't Code § 418.016(e). At this point, the governor has not suspended any budget or tax deadlines.

As mentioned in a previous TML Coronavirus Update, the statewide disaster declaration related to the coronavirus gives cities the option of calculating their voter-approval rates at 8 percent beyond a city's maintenance and operations rate instead of at 3.5 percent beyond the city's maintenance and operations rate. A city that receives its certified appraisal roll or certified estimate of values late might consider opting into the 8 percent voter-approval rate calculation, if for no other reason than to potentially buy enough time to legally comply with the notice and transparency requirements in the Tax Code.

3/26/2020

Are businesses still required to remit sales taxes despite the economic hardship caused by the coronavirus?

Yes. However, the comptroller has acknowledged the difficulty many businesses have in complying with remitting sales taxes. The comptroller recently announced that his office will be offering assistance to businesses struggling to pay the full amount of sales taxes collected in February, which were due to the comptroller on March 20, 2020. This assistance includes offering short-term payment agreements to businesses, and potentially waiving penalties and interest for late remittances.

Businesses struggling to make their February sales tax payments are encouraged to call the comptroller's enforcement hotline at (800) 252-8880 to learn about their payment options.

If a city moves a sales tax reauthorization election to the November uniform election date, does the dedicated sales tax expire even though the city initially planned to have the voters reauthorize the tax prior to its expiration on the May uniform election date?

The answer depends, in large part, on which dedicated sales tax is being reauthorized, and when the expiration will occur. Sales tax reauthorization elections are required for two types of dedicated city sales taxes: the street maintenance sales tax, and the sales tax for crime control and prevention districts.

For the street maintenance sales tax, state law authorizes the comptroller to delay the expiration date of tax to not later than the last day of the first calendar quarter occurring after the city sends notice to the comptroller of the scheduled expiration. *See* Tex. Tax Code § 327.007(d). Most cities that have their street maintenance sales tax expiring in 2020 have a scheduled expiration date of September 30, 2020. In accordance with the authority in Section 327.007(d) of the Tax Code, the comptroller has advised that these cities may request that the comptroller delay the expiration of their street maintenance sales tax to December 31, 2020. Doing so would allow the city to hold the reauthorization election on the November uniform election date without having the sales tax expire.

The comptroller's office has advised TML that a city with a September 30, 2020 street maintenance sales tax expiration date that wishes to delay the expiration of the tax must send a copy of the resolution postponing the city's election to November to Taxalloc.RevAcct@cpa.texas.gov. Once received, the comptroller's office will notify the city in writing that the new expiration date of the street maintenance tax is December 31, 2020. This city is also required to submit the November election results to the comptroller's Tax Allocation Section no later than November 20, 2020.

A few Texas cities have street maintenance sales taxes that are set to expire on June 30, 2020, unless reauthorized. The comptroller's authority to delay the expiration date under Tax Code Sec. 327.007(d) only delays the expiration of these cities' street maintenance sales taxes until September, still before the November uniform election date. Consequently, these cities would see their street maintenance sales taxes expire prior to a reauthorization election in November.

In addition to these cities, a small handful of Texas cities have crime control and prevention district sales taxes that will expire in 2020 unless reauthorized. The crime control and prevention district statute does not contain a provision similar to Tax Code Sec. 327.007(d), so the comptroller lacks the same authority to delay the expiration date of the crime control and prevention district sales taxes.

Cities that either have an expiring crime control and prevention district sales tax, or a street maintenance sales tax that expires in June 2020, are encouraged to continue working with their legislative delegations to request the governor to either extend the expiration dates or set a special emergency election for the reauthorization of those sales taxes prior to their expiration. These cities are also encouraged to reach out to Russell Gallahan with the comptroller's office to discuss their options at Russell.Gallahan@cpa.texas.gov.

4/10/2020

If city revenues drop due to the coronavirus impact, may a city still spend on budgeted amounts?

If a city has an unreserved fund balance, also known as "reserves" or a "rainy day fund," the city council could consider using those reserves for any shortfalls in the existing budget. Doing so would require the city council to adopt a budget amendment to the original budget ordinance.

Texas cities may generally only spend money in strict compliance with the budget, except during an emergency. Tex. Loc. Gov't Code § 102.009(b). State law authorizes the city council to make an emergency expenditure as an amendment to the original budget only for a grave public necessity to meet an unusual and unforeseen condition that could not have been included in the original budget through the use of reasonably diligent thought and attention. Tex. Loc. Gov't Code § 102.009(b). An expenditure necessary to cope with the impact of the coronavirus would almost certainly constitute a "grave public necessity" under the statute.

Home rule cities must also consider any guidance or restrictions in their city charters on the use of reserves. In addition, many cities (home rule and general law) have adopted formal policies governing the level and use of unrestricted fund balance, and would need to act in compliance with those policies. General guidance from the Government Finance Officers Association on the use of fund balance can be found here.

Are property owners entitled to the temporary property tax exemption for properties allegedly damaged as a result of the coronavirus?

To be determined. Yesterday, Senator Paul Bettencourt (R – Houston) requested the attorney general's opinion on the matter. Senator Bettencourt's request centers on the question of whether the new property tax exemption applies only to property that has suffered physical damage as the result of a disaster, or if it also applies when property has suffered economic loss not associated with physical damage. The answer to that question has clear ramifications for how properties are valued this year in light of the current coronavirus pandemic. Properties have not suffered any physical damage due to the coronavirus, so interpreting the exemption to only apply when properties have been physically damaged would mean the exemption is not available for property owners due to the coronavirus disaster. However, if the term "damage" is read to encompass economic loss, then some commercial property owners will potentially be able to receive a partial property tax exemption this year. Regardless of the answer, the exemption almost certainly will not be available to residential property owners, as residential properties have suffered neither physical nor economic damage due to the coronavirus.

By way of background, in 2019, the legislature passed House Bill 492 by Representative Hugh Shine (R – Temple), which was signed by the governor. The accompanying constitutional amendment, House Joint Resolution 34, was approved by the voters at the November 2019 election. H.B. 492 grants a temporary property tax exemption for certain property damaged in a disaster, with the amount of the exemption corresponding to the amount of damage to the property as determined by the chief appraiser. The new exemption serves an alternative to the previous system of disaster reappraisal in which taxing units had the discretion to authorize property reappraisal following a disaster. That disaster reappraisal statute was repealed by H.B. 492.

Cities interested in submitting briefs on the opinion request may do so electronically by emailing briefs to opinion.committee@oag.texas.gov. The attorney general typically encourages briefs to be submitted within 30 days of the attorney general acknowledging receipt of a request. However, because Senator Bettencourt requested an expedited response, briefs should be submitted as soon as possible.

If a city has insufficient reserves to cover costs due to the coronavirus, what options does a city have to balance its budget?

First, a city council can make difficult decisions regarding reducing or eliminating programs, deferring expenditures, or otherwise finding additional efficiencies on the expenditure side. These are major policy determinations to be made by city council after being thoroughly briefed on the financial status of the city.

On the revenue side, options are a bit more limited, especially during the current fiscal year. While grant money has been made available through federal stimulus legislation, many of the details on disbursement are still unknown.

Most formal debt issuances generally are not meant to cover a city's operating expenses. Debt instruments like bonds and certificates of obligation are issued for major capital projects. One exception is a debt instrument called an anticipation note, commonly referred to as a tax note. Cities are authorized by state law to issue anticipation notes to pay operating expenses or to fund a city's cumulative cash flow deficit, so long as the note matures before the first anniversary after the notes are approved by the attorney general. Tex. Gov't Code § 1431.009(c). For all debt instruments, the debt is required to be paid from a pledge of taxes, revenue, or a combination of the two, depending on the type of debt obligation.

A city may also consider a bank loan, though there are some limitations. Unlike the statutes authorizing formal debt instruments, like bonds or anticipation notes, which expressly authorize a city to pledge taxes or revenues and create a sinking fund, no clear statutory authority exists for a city to levy taxes or revenues in support of a bank loan. Without clear authority to do so, a bank loan to a city to be repaid over the course of more than one year could be considered an unconstitutional debt. The safest interpretation of the relevant law is that a city can likely only take out a bank loan if the loan is repaid within the current budget year. A city wishing to take out a long-term bank loan should do so only in reliance upon an opinion by its city attorney or bond counsel.

4/14/2020

Are property owners entitled to a temporary property tax exemption for properties damaged by a disaster if they have suffered economic loss due to the coronavirus pandemic?

According to a Texas attorney general opinion released yesterday (April 13), the answer is no. At issue in the opinion is whether a new disaster-related property tax exemption, passed in 2019, applies only to property that has suffered physical damage (as opposed to purely economic loss) as the result of a disaster.

In Opinion No. KP-299, the attorney general evaluated the plain language of the statute to determine that the word "damage" refers only to "physical harm" to the property: According to the attorney general, "[n]othing in the language of section 11.35 evidences an intent on the part of the Legislature to address non-physical damage to property by allowing an exemption in such circumstances."

As a result, a court would likely conclude that the legislature intended to limit the tax exemption in Tax Code Section 11.35 to property that is physically harmed as a result of a declared disaster.

4/27/2020

How might the property tax appraisal and appeal process be impacted by social distancing requirements?

On April 24, the attorney general received an opinion request from Representative Mayes Middleton regarding the proper procedures that appraisal districts and appraisal review boards must follow in light of the coronavirus pandemic.

The request contains several questions covering different facets of the appraisal process, including questions related to the technological capabilities of appraisal districts and appraisal district notice requirements.

It concludes with a final question about how property values might be impacted for the 2020 tax year: "If the statutory and Constitutional requirements of the property tax protest process are not followed for tax year 2020, noticed values and thereby taxpayer rights to due process protections are denied, must the county appraisal districts then default to the most recent tax year, 2019, in which statutory and due process requirements were met?"

The League will report when the opinion is issued.

5/1/2020

Has the comptroller released recent tax data that indicates the impact of Coronavirus on state revenues?

Yes, the Texas comptroller issued the following today (May 1):

"Texas Comptroller Glenn Hegar today said state sales tax revenue totaled $2.58 billion in April, 9.3 percent less than in April 2019, the steepest decline since January 2010.

The majority of April sales tax revenue is based on sales made in March and remitted to the agency in April. Widespread social distancing requirements were not in place across much of the state until late March, meaning the impact of those measures affected only a portion of sales tax remittances in April. Next month's remittances likely will show steeper declines compared to a year ago, as the effects of both the shuttering of businesses related to COVID-19 and plummeting oil prices were manifest throughout April.

'State sales tax collections declined as a result of efforts to stem the spread of COVID-19 through business closures, crowd limits and stay-at-home orders adopted in the state, as well as a precipitous drop in worldwide demand for oil,' Hegar said. 'The steepest declines in tax remittances were from businesses most quickly and dramatically affected by social distancing: restaurants, performing arts venues, movie theaters, theme parks and fitness centers, as well as department stores and boutique retail shops. However, those losses were, to a degree, offset by increases from big-box retailers, grocery stores and online vendors. Remittances from oil- and gas-related sectors also fell significantly as oil and gas exploration and production companies slashed capital spending in response to the crash in oil price.'

Sales tax is the largest source of state funding for the state budget, accounting for 57 percent of all tax collections. It can also be a lagging indicator of economic slowdowns. The recession associated with the financial crisis more than a decade ago began in December 2007 and lasted 18 months, but Texas did not see significant sales tax declines until early 2009. While the effect on sales taxes from the current economic contraction has been more immediate, the impact of rising unemployment and contracting economic activity in many parts of the state's economy, including oil and natural gas exploration and production, likely will act as a drag on sales tax revenue for many months.

The effects of the March economic slowdown and falling oil prices were more evident in other sources of revenue in April 2020. Texas collected the following revenue from other major taxes:

-Motor vehicle sales and rental taxes — $164 million, down 45 percent from April 2019, the largest monthly drop on record in data going back to 1983;
-Motor fuel taxes — $284 million, down 12 percent from April 2019, the steepest drop since 1991;
-Natural gas production tax — $67 million, down 48 percent from April 2019;
-Oil production tax — $191 million, down 45 percent from April 2019;
-Hotel occupancy tax — $24 million, down 63 percent from April 2019, the deepest drop in data going back to 1990; and
-Alcoholic beverage taxes — $57 million, down 55 percent from April 2019. Declines were driven by mixed beverage gross receipts and sales taxes, both of which were down more than 58 percent. Excise taxes on beer were up 16 percent from April 2019, while wine excise taxes were up 9 percent from April 2019.

For details on all monthly collections, visit the Comptroller's Monthly State Revenue Watch. For an extensive history of tax policy developments and fees since 1972, visit his updated Sources of Revenue publication."

What does the state revenue forecast above portend for city revenues?

Though sales taxes make up a somewhat smaller share of the typical city budget (around 25-28 percent versus 57 percent for the state), it's still going to be a big hit for city budgets and the ability to pay for needed services, such as first responders. As the press release notes, the numbers reflect only a portion of the time we've been under a stay home/work home order. The next round of figures may give us a better indication of the trouble ahead.

5/18/2020

What is the latest news on the disaster exemption in Senate Bill 2 that authorizes a city council to calculate their voter-approval tax rate at 8 percent instead of 3.5 percent under certain circumstances?

On Friday (May 15), Governor Abbott was asked in a television interview about TML's interpretation that the 8 percent voter-approval rate calculation is an option for city councils pursuant to the statewide COVID-19 disaster declaration. He responded as follows:

"First, I don't construe the law the same way that the municipal league does. I disagree, and I think the Texas attorney general disagrees with that legal interpretation.

Know this, your property taxes are not determined by the valuation of your home. They are determined by the taxing authority.

We are urging taxing authorities to not raise rates, but to cut property tax rates to lessen the burden on property owners in Texas."

Other than the governor's verbal assertion, neither he nor the attorney general have provided any guidance as to why they think the disaster rate calculation provision in S.B. 2 does not apply. As budget season begins in earnest, city officials are understandably confused by the governor's comments.

That being said, we see no reason to modify our interpretation at this time. The League will continue to monitor the issue and report as soon as any further guidance is made available.

5/19/2020

What is the latest news on the disaster exemption in Senate Bill 2 that authorizes a city council to calculate their voter-approval tax rate at 8 percent instead of 3.5 percent under certain circumstances?

As we reported yesterday (May 18), the governor stated verbally that he doesn't believe a city can rely on his disaster declaration to calculate the voter-approved rate at a number higher than 3.5 percent without an approval election. (TML's interpretation that the 8 percent voter-approval rate calculation is an option for city councils pursuant to the statewide COVID-19 disaster declaration hasn't changed.)

A group of 226 so-called “grassroots political opinion leaders” sent a letter to the governor yesterday stating, among many other things, that “tax relief is needed NOW to alleviate the burdens on families, empower entrepreneurs, and enable employers to further engineer the economic recovery Texans need, want, and deserve.”

It’s odd that the group would send that message to the governor; he doesn’t set property tax rates. They would be better off sending it to their own mayor and city council or attending their city’s budget hearings. City councils set their budgets and tax rates, and they are well aware that what they do affects residents and businesses in their city. The governor recognizes that (see next question).

What further statements has the governor made with respect to property taxes in general?

The governor issued the following press release today (May 19):

“**Governor Abbott Urges Local Governments Against Increasing Property Taxes For Texans:**

Governor Greg Abbott today responded to a letter from members of the Texas Democratic Congressional Delegation regarding tax burdens on Texans. In his letter, the Governor voices his support of lessening the tax burden on Texans but clarifies that local governments – not the State of Texas – set the property tax rates. The Governor disagreed with the members' support of raising taxes in times of economic prosperity.

‘Property owners shouldn’t be saddled with rising property taxes while dealing with a pandemic,’ said Governor Abbott. ‘As a result, local governments, who set property tax rates, should find ways to reduce the tax burden on Texans. Whether we're facing times of challenge or times of prosperity—raising taxes on the people of Texas is never the answer.’

In his letter, the Governor also urged the members to help pass legislation that protects business owners, healthcare facilities and employees, and first responders from being held liable for COVID-19 exposure claims when they adhere to relevant public health guidelines and make good faith efforts to limit the risk of exposure and infection.”

City officials should commend the governor for deferring to their judgment about local budget and tax decisions.

6/1/2020

Has the comptroller released recent tax data that indicates the impact of Coronavirus on state revenues?

Yes, the Texas comptroller issued the following today (June 1):

“Texas Comptroller Glenn Hegar today said state sales tax revenue totaled $2.61 billion in May, 13.2 percent less than in May 2019 and the steepest year-over-year decline since January 2010.

The majority of May sales tax revenue is based on sales made in April and remitted to the agency in May. Widespread social distancing requirements were in place across much of the state throughout April.

‘Significant declines in sales tax receipts were evident in all major economic sectors, with the exception of telecommunications services,’ Hegar said. ‘The steepest decline was in collections from oil and gas mining, as energy companies cut well drilling and completion spending following the crash in oil prices.’

The business closures and restrictions and stay-at-home orders due to the COVID-19 pandemic spurred deep drops in collections from restaurants, amusement and recreation services, and physical retail stores. These declines were offset in part by increases from big box retailers and grocery stores that remained open as essential businesses, online retailers and restaurants that could readily pivot to takeout and delivery service.

‘With the easing of state and local government social distancing orders beginning in May, business activity in the sectors most affected by measures to curb the pandemic should begin to slowly recover, but operations resuming at reduced capacity will result in continued reductions in employment, income and activity subject to sales tax for months to come.’

Sales tax is the largest source of state funding for the state budget, accounting for 57 percent of all tax collections, but the effects of the economic slowdown and low oil prices were evident in other sources of revenue in May 2020. Texas collected the following revenue from other major taxes:

-Motor vehicle sales and rental taxes — $265 million, down 38 percent from May 2019 and a modest improvement over April’s results;
-Motor fuel taxes — $221 million, down 30 percent from May 2019 and the steepest drop since 1989;
natural gas production tax — $31 million, down 76 percent from May 2019;
-Oil production tax — $90 million, the lowest monthly amount since July 2010, down 75 percent from May 2019 and the steepest drop since a 77 percent drop in March 1988;
-Hotel occupancy tax — $8 million, down 86 percent from May 2019 and the steepest drop on record in data going back to 1982; and
-Alcoholic beverage taxes — $28 million, down 76 percent from May 2019 and the steepest drop on record in data going back to 1980.

For details on all monthly collections, visit the Comptroller's Monthly State Revenue Watch. For an extensive history of tax policy developments and fees since 1972, visit our updated Sources of Revenue publication.”

6/2/2020

Some state officials have said that TML is "advocating" for cities to increase their voter-approval tax rates from 3.5 percent to 8 percent. Is this true?

Unequivocally not. The League has reported on the plain language of a new statutory provision enacted by S.B. 2, which gives city councils the discretion to direct their designated officer or employee to calculate the voter-approval tax rate at eight percent if the city is located in an area declared a disaster area by the governor or president. At this point, the League is unaware of any legal guidance from the state's attorney general, or elsewhere, that indicates this disaster calculation provision has not been triggered. If such guidance is released, we will pass that information along to our membership as quickly as possible.

Local leaders are looking for guidance on the budget and tax rate adoption process, as city budgeting kicks into high gear this summer. To assist, we have submitted to our membership, in response to numerous inquiries, the most reasonable reading of the statute. We have not, however, advocated for cities to take any particular action with regard to their tax rate, and certainly haven't encouraged cities to increase their voter-approval tax rates to eight percent, or by any amount. In fact, in the only guidance we have released on the disaster calculation provision back on March 19, we attempted to make this point clear:

"To be clear, the League takes no position on whether a city should or should not use the higher voter-approval rate calculation allowable in a disaster. Each city is different and will need to make that decision based upon any number of factors, such as the impact of the COVID-19 virus on other sources of local revenue, like sales taxes, the amount of city expenditures made in response to the emergency, as well as the ability and willingness of local taxpayers to potentially pay a higher tax rate."

In recent weeks, some cities have considered resolutions to calculate the voter-approval tax rate at eight percent. Some city councils have adopted these resolutions, others have rejected them. The League supports the ability of all city leaders to decide on tax rates for their communities, whatever that decision might be.