

## **Deadlines When the Adopted Tax Rate Exceeds the Voter-Approval Rate<sup>1</sup>**

*These are absolute deadlines and assume the city waits until the last minute for each step. In most cases the city would be well-advised to act in advance of these dates. This memo will be updated with any relevant changes made by the 88<sup>th</sup> Legislature.*

### **Saturday, July 22: Deadline to File Proposed Budget**

This is the last day for the city's budget officer to file a proposed budget with the municipal clerk if the city plans to wait until August 22 to adopt the tax rate. TEX. LOC. GOV'T CODE § 102.005 (*before the 30<sup>th</sup> day before the date the tax rate is adopted – thus, if a city plans to adopt its tax rate before August 22, the proposed budget must be filed sooner*).

**Note - Budget Cover Page:** The proposed budget must contain a special cover page if the budget will raise more revenue from property taxes than the previous year. TEX. LOC. GOV'T CODE § 102.005(b). The city secretary must post the proposed budget on the city's website if the city maintains one. TEX. TAX CODE § 26.18(5). Additionally, the proposed budget must include a line item comparing expenditures in the proposed budget and actual expenditures in the preceding year for: (1) notices required to be published in the newspaper; and (2) directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action. TEX. LOC. GOV'T CODE § 140.0045.

### **Tuesday, July 25: Tax Rolls Due**

Chief appraiser must deliver the certified appraisal roll or certified estimate of taxable value to assessor. TEX. TAX CODE § 26.01(a).

**Note - Estimated Tax Values:** A chief appraiser may submit a certified estimate of taxable value in lieu of a certified appraisal roll if the appraisal review board for the appraisal district does not approve the appraisal records for the district by July 20. TEX. TAX CODE § 26.01(a-1). If the assessor receives a certified estimate of taxable values, the officer or employee designated by the city council must calculate the no-new-revenue tax rate and voter-approval tax rate using the estimate. *Id.* § 26.04(c-2).

### **Monday, August 7: Submit Tax Rates to City Council**

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<sup>1</sup> If a city with a population of 30,000 or more chooses to adopt a tax rate that exceeds the voter approval rate, they are required to call an election for their residents to decide whether to approve the newly adopted rate at the November election date. This year that date is November 7, 2023. The dates in this calendar represent the last possible days cities can take the statutorily mandated steps required to adopt a budget and a tax rate in time to order the required election.

The designated officer or employee must submit the no-new-revenue and voter-approval tax rates to the city council by this date, or as soon thereafter as practicable. TEX. TAX CODE § 26.04(e). The designated officer or employee must post the calculated no-new-revenue tax rate and voter-approval tax rates, along with certain debt information, on the home page of the city's website in the form prescribed by the comptroller. *Id.*

**Note – Comptroller Rate Calculation Forms:** The designated officer or employee shall use the tax rate calculation forms prescribed by the comptroller in calculating the no-new-revenue and voter-approval tax rates. TEX. TAX CODE § 26.04(d-1). These rates may not be submitted to the city council, and the city council may not adopt a tax rate, until the designated officer or employee certifies on the tax rate calculation forms that the person has accurately calculated the tax rates and used values from the city's certified appraisal roll in performing the calculations. *Id.* § (d-2). As soon as practicable after the designated officer or employee calculates the no-new-revenue tax rate and the voter-approval tax rate for the city, the designated officer or employee shall submit the tax rate calculation forms used in calculating the rates to the county assessor-collector for each county in which all or part of the city is located. *Id.* § 26.04(d-3).

**Note – De Minimis Rate Calculation:** A city with a population of less than 30,000 has an additional option with regard to a tax rate: the “de minimis” rate. Put simply, this is a rate that will impose an amount of taxes equal to \$500,000 more than the previous year, while taking the debt rate into account. TEX. TAX CODE § 26.012(8-a). While there is no requirement that the designated officer or employee calculate the de minimis rate, the city will need to know this rate to take advantage of it. Cities are encouraged to communicate with their designated officer or employee in advance of this date to confirm the calculation of the de minimis rate.

#### **Thursday, August 10: Deadline to Publish Notice of Budget Hearing in the Newspaper**

This is the last day to publish notice of the budget hearing. TEX. LOC. GOV'T CODE § 102.0065 (not later than 10th day before the budget hearing). Note that the notice may not be published earlier than the 30th day before the hearing making July 21st the earliest date possible for publication for an August 20th budget hearing. The budget hearing notice must contain specific information about property tax increases. TEX. LOC. GOV'T CODE §102.0065(d).

**Note – Required Notice Language:** The budget hearing notice must contain specific information about property tax increases. TEX. LOC. GOV'T CODE §102.0065(d).

#### **Monday, August 14: Proposed Tax Rate Approval**

City council should hold a record vote approving a proposed tax rate. Although there is not a statutorily defined procedure for the city council to follow in determining the proposed tax rate, this date effectively serves as the deadline, as the required notices of the tax rate hearing include the proposed tax rate (see note below).

### **Monday, August 14: Internet and Television Notice of Tax Rate Hearing**

Continuous internet and television notice of tax rate public hearing begins. TAX CODE § 26.065. The notice must be posted continuously for at least seven days immediately before the public hearing on the proposed tax rate increase and at least seven days immediately before the date of the vote proposing the increase in the tax rate. *Id.*

**Note – Specific Content Requirements:** For content of the Internet and television notice, see Sections 26.06(b-1), (b-2), and (b-3) of the Tax Code.

**Note – Record Vote Required:** The required notice of the tax rate hearing requires the names of all members of the governing body, showing how each voted on the proposed tax rate and indicating the absences, if any, during the vote on the proposed tax rate. TEX. TAX CODE §§ 26.06(c) and 26.061.

**Note – Special Notice Provisions:** The tax rate notice requirements for a city change when the de minimis rate exceeds the voter approval rate. TEX. TAX CODE § 26.063. Note that, in the unlikely event that a city with a population of less than 30,000 has a de minimis rate that does not exceed its voter-approval rate, these alternate notice provisions are not available to the city.

**Note – Low Tax Levy Cities:** A city that has a “low tax levy” under Tax Code § 26.052 (a city that levies under \$500,000 in total property taxes and has a tax rate under \$.50 per \$100 of valuation) may choose to provide notice of its tax rate under that section instead of Sections 26.04(e) and 26.06. A “low tax levy” city that chooses to provide notice under Section 26.052 is not required to hold a public hearing on the tax rate; however, the city is required to provide mailed or published notice of the tax rate no later than seven days before the date the city adopts the tax rate. Tax Code § 26.052(c). If the city chooses to publish notice of the tax rate in the newspaper, the city must also provide public notice of its proposed tax rate by posting notice of the proposed tax rate, along with the information in Tax Code § 26.052(e), prominently on the home page of the city’s website.

### **Wednesday, August 16: Notice of Tax Rate Hearing or Meeting to Adopt Tax Rate**

This is the last day to publish notice of the tax rate hearing. TEX. TAX CODE § 26.06(a) (the public hearing may not be held before the fifth day after the date the notice of the public hearing is given).

**Note - Notice Options:** The notice may be delivered by mail to each property owner, or may be published in a newspaper. TEX. TAX CODE § 26.06(c). If the notice is published in the newspaper, the city must also post the notice prominently on the home page of the city's website from the date the notice is first published until the public hearing is concluded. *Id.* The notice must be in the form prescribed by Tax Code Section 26.06 or 26.061, and must include the table described in Tax Code Section 26.062.

**Note – Election-Related Notice:** A city adopting a rate triggering an automatic election or the right to petition for an election must modify the notice in accordance with Tax Code Section 26.063.

### **Sunday, August 20: Budget Hearing**

This is the last day for hearing on budget. TEX. LOC. GOV'T CODE § 102.006(b) (hearing shall be before the date of the tax levy). Note that the hearing must be after the 15th day after the proposed budget is filed with the clerk.

**Note – Action Required:** The city must take some sort of action on the budget at conclusion of hearing. TEX. LOC. GOV'T CODE § 102.007. This action could be the adoption of the budget, or else a vote to postpone the final budget vote. It is generally accepted that the city need not adopt the budget at the end of the hearing.

### **Monday, August 21: Budget Adoption**

The city should adopt the budget no later than this date. TEX. LOC. GOV'T CODE § 102.009 (city may only levy taxes in accordance with budget, and because levy cannot take place later than August 21 (see below), this is the effective deadline for property taxing cities).

**Note – Separate Ratification Vote Requirement:** The city council must take a separate ratification vote to adopt any budget that will raise total property tax revenue. TEX. LOC. GOV'T CODE § 102.007(c). The budget must contain a special cover page that includes: (a) a specific statement on whether the budget raises more, less, or the same amount of property tax revenue compared to the previous year's budget; (b) the record vote of each member of the city council by name voting on the adoption of the budget; (c) the city property tax rates for the preceding and current fiscal years, including the adopted rate, no-new-revenue tax rate, no-new-revenue maintenance and operations tax rate, voter-approval tax rate, and debt rate; and (d) the total amount of city debt obligations secured by property taxes. TEX. LOC. GOV'T CODE § 102.007(d). The adopted budget, including the cover page, must be posted on the city's website if the city has one. The city council shall include as an appendix to the city's budget for a fiscal year the tax rate calculation forms used by the designated officer or employee to calculate the city's no-new-revenue tax rate and the voter-approval tax rate for the tax year in which the fiscal year begins. TEX. TAX CODE § 26.04(e-5).

### **Monday, August 21: Tax Rate Adoption**

The city must hold tax rate hearing and adopt a tax rate exceeding (1) the city's voter-approval tax rate; or (2) in certain cities with a population of less than 30,000, the greater of the city's voter-approval tax rate or de minimis tax rate no later than this date. TEX. TAX CODE § 26.05(a) (city council must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the November uniform election date; however, the city council must order the automatic election by no later than the 78<sup>th</sup> day before the November election date under Election Code Section 3.005(c), effectively making the deadline to adopt the tax rate the 78<sup>th</sup> day before the November uniform election date).

**Note – Tax Rate Hearing:** The hearing must be held on a weekday that is not a public holiday. TEX. TAX CODE § 26.06(a). The city council may vote on the proposed tax rate at the public hearing. If the city council does not vote on the proposed tax rate at the public hearing, the city council shall announce at the public hearing the date, time, and place of the meeting at which it will vote on the proposed tax rate, and that meeting may not be held later than the seventh day after the date of the public hearing. TEX. TAX CODE § 26.06(e). The city council must separately approve the maintenance and operations component and the debt service component of the tax rate. TEX. TAX CODE § 26.05(a).

**Note – Rate Adoption Motion:** The motion to adopt a tax rate that exceeds the no-new-revenue rate must be made precisely as follows: “I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate.” If the tax rate will exceed the no-new-revenue tax rate, the vote on the ordinance setting the tax rate must be a record vote and must be approved by at least 60 percent of the members of the city council. TEX. TAX CODE § 26.05(b). Tax Code Section 26.05 contains several other precise requirements regarding notice in the tax rate ordinance itself that must be complied with if the city adopts a rate exceeding the no-new-revenue tax rate.

**Note – Earliest Possible Date for Hearing:** The city council may not hold its public hearing or public meeting to adopt a tax rate until the fifth day after the date the chief appraiser of each appraisal district in which the city participates has delivered its tax estimate notice under Tax Code Sec. 26.04(e-2) and made various types of tax rate information and the tax rate calculation forms available on to the public via the property tax database under Tax Code Sec. 26.17(f). TEX. TAX CODE. § 26.05(d-1).

**Note – Failure to Adopt Tax Rate:** The tax rate of a city that fails to adopt a tax rate before the statutory deadlines is limited to the lower of the voter-approval tax rate or the no-new-revenue tax rate. TEX. TAX CODE § 26.05(c).

### **Monday, August 21: Order Rate Approval Election**

If the city adopts a rate exceeding the voter-approval tax rate or, in the case of certain cities with a population of less than 30,000, the greater of the voter-approval tax rate or the de minimis tax rate, the city must **order the automatic election** to approve the tax rate no later than the 78<sup>th</sup> day before the November uniform election date. TEX. ELEC. CODE § 3.005(c).

**Note – Proposition Wording:** At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving the ad valorem tax rate of \$\_\_\_\_\_ per \$100 valuation in (name of city) for the current year, a rate that is \$\_\_\_\_\_ higher per \$100 valuation than the voter-approval tax rate of (name of city), for the purpose of (description of purpose of increase). Last year, the ad valorem tax rate in (name of city) was \$\_\_\_\_\_ per \$100 valuation." The ballot proposition must include the adopted tax rate, the difference between the adopted tax rate and the voter-approval tax rate, and the city's tax rate for the preceding tax year in the appropriate places. TEX. TAX CODE § 26.07(c).

### **Monday, August 28: Rate Adoption Deadline in Certain Circumstances**

A city with a population of less than 30,000 adopting a tax rate that exceeds the voter-approval tax rate but is lower than the de minimis tax rate must **adopt its tax rate** no later than this day. TEX. TAX CODE § 26.05(a) (city council must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the November uniform election date).

**Note - Separate Votes for M&O and Debt Components:** The city council must separately approve the maintenance and operations component and the debt service component of the tax rate. TEX. TAX CODE § 26.05(a). The motion to adopt a tax rate that exceeds the no-new-revenue rate must be made precisely as follows: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the no-new-revenue tax rate) percent increase in the tax rate." If the tax rate will exceed the no-new-revenue tax rate, the vote on the ordinance setting the tax rate must be a record vote and must be approved by at least 60 percent of the members of the city council. TEX. TAX CODE § 26.05(b). Tax Code Section 26.05 contains several other precise requirements regarding notice in the tax rate ordinance itself that must be complied with if the city adopts a rate exceeding the no-new-revenue tax rate.