

Street Maintenance Sales Tax

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An Overview of the State's Municipal Sales and Use Tax for Street Maintenance

Many Texas cities do not have the funds necessary to repair existing roads. Recognizing this, the 77th Texas Legislature passed House Bill 445 in 2001, adding Chapter 327, Tax Code, Municipal Sales and Use Tax for Street Maintenance. Section 327.004, Tax Code, allows cities to raise their local sales tax rate by one-eighth of one percent or one-fourth of one percent if the funds are dedicated to street maintenance and repair.

Who is eligible?

Cities may impose the tax, with voter approval, if the new,

combined local sales tax rate will not exceed two percent.

[Refer to Sec. 327.003(b), Tax Code.]

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Election is required

The voters must approve the additional sales tax. The city's governing body must adopt an ordinance calling for the election at least 62 days before it is held. For an election to be held on the date of the general election for state and county officers, the election must be ordered not later than the 70th day before election day.

The election must be held on one of the following uniform election dates:

- the second Saturday in May; or
- the first Tuesday after the first Monday in November.

[Refer to Secs. 3.005 and 41.001(a), Election Code.]

Ballot Language

At the election to adopt the additional tax, a ballot must allow voters the choice of voting

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for or against the proposition. Following is the required ballot language:

“The adoption of a local sales and use tax in _____ (name of

would have to contain substantially the same language as that required for lowering, repealing, raising or adopting each tax as appropriate. If a combined sales tax proposition were defeated, there would be no effect on existing sales taxes.

[Refer to Sec. 321.409, Tax Code.]

Election Results

If the election is successful, within 10 days of the election the city must declare the results of the election by resolution or an ordinance entered in its minutes of proceedings. The resolution or ordinance must include statements showing:

- the date the election was held;
- the wording of the proposition;
- the total number of votes cast for and against the proposition; and
- the number of votes by which the proposition passed.

[Refer to Sec. 321.405, Tax Code.]

If the voters of a municipality adopt the street maintenance sales tax at an election held on the same date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and, as a result, the combined rate of all sales and use taxes imposed by the municipality and other political subdivisions would exceed two percent at any location in the municipality, the election to adopt a street maintenance sales tax will have no effect.

[Refer to Sec. 327.003(c), Tax Code.]



municipality) at the rate of (insert one-eighth of one percent or one-fourth of one percent) to provide revenue for maintenance and repair of municipal streets.”

[Refer to Sec. 327.006(b), Tax Code.]

For sales tax elections called by the governing body, a municipality may combine measures to lower or repeal any dedicated or special purpose municipal sales tax into a single ballot proposition, and at the same time raise or adopt any other dedicated special purpose municipal sales tax. A combined sales tax proposition

The tax will become effective on the first day of the first calendar quarter after one complete calendar quarter passes from the date the Comptroller receives the city's notice that voters have approved the tax.

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Effective Date

The tax will become effective on the first day of the first calendar quarter after one complete calendar quarter passes from the date the Comptroller receives the city's notice that voters have approved the tax.

[Refer to Sec. 327.005, Tax Code.]

For example, if voters approve the tax in an election held in May 2006 and send the election results to the Revenue Accounting, Tax Allocation Section of the Comptroller's office by the end of June, the tax would take effect on October 1, 2006. The city would then begin receiving revenue from the Comptroller beginning with its December 2006 sales tax allocation.

Administration of the Tax

The city does not have to form a development corporation or create a special district to administer the street maintenance sales tax. The city administers the tax directly, but should account for the funds separately, since use of the tax is restricted.

Use of the Street Maintenance Sales Tax

The sales tax may be used only to maintain and repair municipal streets that existed on the date of the election to adopt the tax. It may not be used to build new streets.

[Refer to Sec. 327.008, Tax Code.]

"Municipal Streets" Defined

"Municipal street" means the entire width of right of way held by a city that has a part open for public vehicular travel. The term does not

include a designated state or federal highway or road, or a designated county road.

[Refer to Sec. 327.001, Tax Code.]



Expiration and Reauthorization of the Tax

The street maintenance sales tax expires four years after it takes effect unless voters vote to continue it in an election held for that purpose. The election to reauthorize the tax must be held on one of the two uniform election dates noted previously.

The ballot proposition language should permit voting for or against the following proposition:

"The reauthorization of the local sales and use tax in _____ (name of municipality) at the rate of _____ (insert

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appropriate rate) to continue providing revenue for maintenance and repair of municipal streets.”

The municipality must notify the Comptroller of the scheduled expiration not later than the 10th day after the municipality determines that the tax will expire.

[Refer to Sec. 327.007, Tax Code.]

The appropriate rate is one-eighth of one percent or one-fourth of one percent.

[Refer to Sec. 327.004, Tax Code.]

If an election to reauthorize the tax is not held before the tax expires or if votes cast in an election to reauthorize the tax do not favor reauthorization, the municipality may not call an election to authorize a new tax under this chapter before the first anniversary of the date on which the tax expired.

[Refer to Sec. 327.007(c), Tax Code.]

Need More Information

For more information about the street maintenance sales tax, call the Comptroller's Local Government Assistance section toll free at (800) 531-5441, ext. 3-4679.

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