

SALT and the New Property Tax Relief Act

Presented by:

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Property Tax System – Overview

- Appraisal districts throughout Texas are responsible for appraising the value of the properties in their district on behalf of all taxing units therein
- The Property Tax Code creates appraisal districts and requires each district to appraise property for ad valorem tax purposes of each taxing unit within the district
 - To discharge this duty, appraisal districts must establish appraisal offices and retain chief appraisers
- The Tax Code also establishes an appraisal review board for each district, which is charged with determining property owners' protests and ensuring that property is properly appraised

Property Tax System – Property Subject to Tax

- Commercial and residential real property
- Appraisal district identifies property, appraises it annually, and notices its value
 - Residential properties usually appraised by staff
 - Large industrial properties are often appraised by external consultants
- Taxes imposed by taxing units where property is located
 - Annexation issues
 - Burden of taxes and regulation; benefit of government services
 - In lieu of agreements
- Taxpayers apply for exemptions
- Opportunity to protest notice of appraised value or denial of exemptions

Property Tax System – Property Subject to Tax

- Business personal property
 - Taxpayers render property
 - If the appraisal district adjusts the value or denies an exemption, Taxpayers have the opportunity to protest
- Intangible property
 - Limited to Insurance and Finance Codes intangibles
 - Taxable only if owned by a resident of Texas, or located in Texas for business purposes

Property Tax System

Rendering Personal Property

- A rendition is a form that provides the description, location, cost and acquisition dates for personal property
- The appraisal district uses the rendition to help estimate the market value of personal property
- The rendition must generally be filed on Form 50-144, “Business Personal Property Rendition of Taxable Property”
- Deadlines for rendering – effective in 2020

Property Tax System

Appraisals – In General

- Property owners are entitled to have their property taxed based on appraisals that
 - Are not excessive
 - Are equal and uniform

Property Tax System

Excessive Appraisal

- The Texas Constitution provides that property shall not be assessed for ad valorem taxes at a value greater than its fair cash market value and that no taxing unit within the State of Texas shall fix the value of any property at more than its fair cash market value
- The Texas Tax Code similarly provides that all taxable property be appraised at its “market value” as of January 1 of the tax year in issue

Property Tax System Equal & Uniform

- The Texas Constitution gives taxpayers the right to have their property appraised equally and uniformly with other properties
- The Texas Tax Code similarly requires equal and uniform appraisals for all taxable property located in the State of Texas
- Several independent tests exist to evaluate whether an appraisal fails the equal and uniform standard set forth in the Texas Constitution and Texas Tax Code
- Appraisal is unequal if:
 - The appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties appropriately adjusted
 - The appraisal ratio of the property exceeds by at least 10% the median level of appraisal of a reasonable and representative same of other properties or of a reasonable number of properties of the same general kind or character

Property Tax System Exemptions – In General

- Tax Code contains over 50 exemptions
- These include
 - Residential homestead
 - Tangible personal property not producing income
 - Federal Exemption
 - Tangible personal property in transit
 - Offshore drilling equipment not in use
 - Pollution control property
 - Freeport exemption
- Eligibility for and amount of an exemption generally determined by claimant's qualifications on January 1
- Most exemptions require Taxpayers to apply for the exemption; some require annual applications
- In general, a Taxpayer must timely apply for an exemption or they will lose it
- Several exemptions permit late or retroactive applications

SB 2 and HB 3 – Introductory Information

Senate Bill 2

- Senate Bill 2 (“SB 2”), the Texas Property Tax Reform and Transparency Act of 2019, was signed into law on June 10, 2019 by Governor Greg Abbott
- SB 2 aims to slow the increase of property tax rates across Texas and make it easier for Texans to understand what is happening with their property taxes and when
- The majority of SB 2 went into effect on January 1, 2020

House Bill 3

- House Bill 3 (“HB 3”) is a related bill that focuses primarily on educational funding in Texas
- HB 3 was signed by Governor Abbott June 12, 2019
- While SB 2 contains most of the pertinent changes to the property tax law regime, HB 3 instituted a process by which current property taxes will be decreased

SB 2 and HB 3 – Small Changes

The Texas Legislature has changed the verbiage for how it refers to several terms under Senate Bill 2, these changes are also reflected in House Bill 3

- Previously a taxing unit’s “effective” maintenance and operations tax rate, the new term is the taxing unit’s “no-new-revenue” maintenance and operations tax rate
 - SB 2, Section 2, adding Section 1.045(1) to the Texas Tax Code
- The same change has been made for a taxing unit’s “effective” tax rate, which is now a taxing unit’s “no-new-revenue” tax rate
 - SB 2, Section 2, adding Section 1.045(2) to the Texas Tax Code
- A reference to a taxing unit’s “rollback” tax rate is a reference to a taxing unit’s “voter-approval” tax rate
 - SB 2, Section 2, adding Section 1.045(3) to the Texas Tax Code

SB 2 and HB 3 – Impacts to Property Tax Rates

Senate Bill 2

- In the event that a taxing unit wishes to increase revenue by more than 3.5% from the previous year's tax rates, it will have to hold an election
 - SB 2, Section 36, amending Section 26.04 of the Texas Tax Code

House Bill 3

- HB 3 provides for a decrease in the total amount of tax that a school district may charge in its district
- It does this in part by restructuring how a school district's maintenance and operational taxes are determined, including dropping the state compression percentage multiplier from \$1.50 to \$1.00
 - See HB 3, Section 1.009, amending Section 45.0032 of the Texas Education Code; HB 3, Section 1.021, amending Section 48.051 of the Texas Education Code
- HB 3 also provides a cap of 2.5% on a school district's ability to tax property value increases in its borders if the property values increase by 2.5% or more over the previous year's values
 - HB 3, Section 1A.007, amending Section 48.255 of the Texas Education Code

SB 2 and HB 3 – Increasing Transparency

Senate Bill 2

- If a taxpayer protests the appraisal value of their property, the appraisal review board may not increase the value of the property above the value stated in the appraisal records
 - SB 2, Section 65, amending Section 41.47 of the Texas Tax Code
- Any election to approve a property tax rate increase that exceeds 3.5% must be held in the November elections
 - For most taxing jurisdictions and municipalities with more than 30,000 residents, this election does not have to be requested or petitioned for by taxpayers, it is automatic under the changes to the Texas Tax Code
 - Section 51 of Senate Bill 2, amending Section 26.07 of the Texas Tax Code
- A taxing unit holding a public hearing on increases to tax rates may deliver notices of the hearing to each property owner in the taxing unit's borders by mail, or by publication in a newspaper
 - SB 2 adds that if the notice is published in a newspaper, the notice must also be prominently posted on the taxing unit's website
 - SB 2, Section 48, amending Section 26.06 of the Texas Tax Code
- Upon the written request of an owner, the appraisal district will be required to send certain notices to the property owner's designated e-mail address
 - SB 2, Section 5, adding Section 1.086 to the Texas Tax Code

Limited Sales/Use Tax – Overview

- Largest state tax by revenue
- Applies to retail sales of Taxable Items
 - Tangible Personal Property (TPP)
 - Taxable Services – specifically enumerated
- Sales tax rate is 6.25% (state) plus up to 2% (local)
- Use tax on use of taxable items purchased outside of Texas and used in Texas (credit for sales tax paid to other states)
- Exemptions: (1) legislative priority/incentive-based (e.g., manufacturing); (2) policy-based (e.g., sale for resale); (3) required (e.g., import/export)
- All sellers with nexus are required to remit taxes to the state, but the burden is technically imposed on buyers

Limited Sales Tax – Taxable Items

- Tangible personal property
 - Personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner
- Taxable services (specifically enumerated)
 - Amusement services
 - Cable television services
 - Personal services
 - Motor vehicle parking and storage services
 - Repair (etc.) of tangible personal property
 - Telecommunication services

Limited Sales Tax – Taxable Services

- Taxable services (cont.)
 - Credit reporting services
 - Debt collection services
 - Insurance services
 - Information services
 - Real property services
 - Data processing services
 - Real property repair and remodeling
 - Security services
 - Telephone answering services
 - Internet access services
 - Certain electrical transmission and delivery services

South Dakota v. Wayfair

- Decision issued June 21, 2018
- Whether the Court should continue to interpret the Commerce Clause as requiring a physical presence before a state may collect sales tax from a remote seller
 - Court overturns the physical presence test!
- The Texas Comptroller's response to Wayfair

Motor Fuels Tax

- Tax imposed on Gasoline and Diesel Fuel
- Tax generally imposed
 - On removal from terminal using the terminal rack, other than by bulk transfer
 - When imported into Texas, other than by a bulk transfer, for delivery to a destination in Texas
 - When removed from the bulk transfer/terminal system in Texas
 - Other incidents of tax for each of the products
- Tax also imposed on Compressed Natural Gas and Liquefied Natural Gas

Severance Taxes

- Gas Production Tax
- Oil Production Tax
- Sulphur Production Tax
- Tax Credit for New Field Discoveries

Margins Tax – Overview

- The franchise tax is applicable to most entities that have limited liability protection
 - Applicable to limited partnerships and LLCs
 - Not applicable to individuals
 - Not applicable to general partnerships (if all partners are “natural persons”)
- Franchise tax is based on a taxable entity’s margin, which is generally the smallest of the following:
 - Total Revenue x 70%
 - Total Revenue – COGS
 - Total Revenue – \$1 million
 - Total Revenue – Compensation

Motor Vehicle Sales Tax

- Tax imposed on every "retail sale" of every "motor vehicle" sold in Texas
 - Obligation of, and shall be paid by, the purchaser of the motor vehicle
 - Certain sellers have obligation to collect the tax
- "Motor vehicle" broadly defined to include
 - a self-propelled vehicle designed to transport persons or property on a public highway;
 - a trailer and semitrailer, including a van, flatbed, tank, dumpster, dolly, jeep or auxiliary axle
- List of statutory exemption; no express exemption for occasional sales
- Issues for mobile machinery

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