COUNTY ASSISTANCE DISTRICT TAX

To assist Texas counties with funding public services, projects and programs, the state of Texas grants all counties the authority to create county assistance districts and to adopt a local sales tax to finance these important public purposes.

Sales tax may be levied in **0.125%** increments up to **2%**

This publication is intended as a general guide and not as a comprehensive resource on the subjects covered. It is not a substitute for legal advice.

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WHO IS ELIGIBLE?

All counties are eligible to create any number of county assistance districts under **Local Government Code, Chapter 387**, as long as the total combined rate of all local sales taxes within a proposed district does not exceed 2 percent.

HOW DO YOU CALL FOR AN ELECTION TO CREATE A COUNTY ASSISTANCE DISTRICT?

A county commissioners court must call an election to authorize each district's creation and imposition of the sales tax. A district may consist of noncontiguous tracts. The permissible rates for the district sales tax range from 0.125 percent to 2 percent, in increments of 0.125 percent.

In addition to the Texas Election Code's requirements, the election order must:

- *define the boundaries of the district; and*
- *call for the election to be held within those boundaries.*

If the proposed district includes any territory of a municipality, the commissioners court must send notice of its intent to create the district to the city council. If the municipality has created a development corporation under the Development Corporation Act of 1979 (Local Government Code, chapters **504** and **505**), the commissioners court also must send notice to that corporation's board of directors.

The notices must be sent by certified mail at least 60 days prior to ordering the election to adopt the county assistance district.

The governing body of the municipality may exclude the territory of the municipality from a proposed district by sending notice by certified mail to the commissioner's court of the governing body's desire to exclude the municipal territory from the district.

The governing body must send the notice not later than the 45th day after the date the governing body receives notice from the commissioner's court.

The territory of a municipality that is excluded from a county assistance district may be included in a district at a later time by an election called by the commissioner's court with the consent of the municipality.

The area in which the election is held is included in a district and the sales and use tax is imposed if a majority of the votes received at the election favor inclusion in the district and imposition of the sales and use tax.

[Refer to **Local Government Code, Section 387.003(b-1)**.]

For guidance on the timing of elections, please contact the office of the Secretary of State at 512-463-5650 or toll free at 800-252-8683. Additional information is available on the **Secretary of State's website**.

The election must be held on one of these uniform election dates:

- *(1) the first Saturday in May in an odd-numbered year;*
- *(2) the first Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county, or ordered by the governor;*
- *the first Tuesday after the first Monday in November.*

[Refer to **Election Code, Section 41.001**]

Voters must **approve the tax** in an election before it is levied.

BALLOT LANGUAGE FOR COUNTY ASSISTANCE DISTRICT ELECTIONS

At the election, the ballot must allow voters the choice of voting for or against the proposition.

The ballot language required by Local Government Code, to create the district and adopt the local sales tax is as follows:

> *"Authorizing the creation of the _____ County Assistance District Number _____ (insert name of district) and the imposition of a sales and use tax at the rate of ____ percent (insert appropriate rate) for the purpose of financing the operations of the district."*

For a district to increase the tax rate, the ballot language required by Section 387.010(c), Local Government Code, is as follows:

> *"The increase of a sales and use tax for the _____ County Assistance District Number _____ (insert name of district) from the rate of ____ percent (insert appropriate rate) to the rate of ____ percent (insert appropriate rate)."*

[Refer to **Local Government Code, Sect. 387.003(c)** and **387.010(c)**.]

HOW DO YOU NOTIFY THE COMPTROLLER OF THE ELECTION RESULTS?

If a majority of votes received at the election favor the creation of the district and imposition of the sales tax, the commissioner's court, by resolution entered in the minutes of its proceedings, must declare the results of the election.

In accordance with the Tax Code, the order or the resolution should include statements showing:

- *the date of the election;*
- *the proposition on which the vote was held;*
- *the total number of votes cast for and against the proposition; and*
- *the number of votes by which the proposition was approved.*

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If the election results change the application of the local sales tax, the county judge should send a certified copy of the order or the resolution, by U.S. certified or registered mail, to the Comptroller's office. The order or resolution should also include a map showing the boundaries of the district.

If a majority of votes received at the election are against the creation of the district, another election on the question of creating a county assistance district may be held on any subsequent uniform election date.

Questions may be emailed to **taxalloc.revacct@cpa.texas.gov**. [Refer to **Tax Code, Sect. 323.405**.]

WHEN DOES IMPOSITION AND ADMINISTRATION OF THE TAX BEGIN?

According to **Local Government Code, Sect. 387.012**, the adoption, change or repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the Comptroller's office receives notice of the results of the election adopting, changing or repealing the tax.

For example, if a county holds a successful election in May and properly notifies the Comptroller's office by June 30, the sales tax would take effect the following Oct. 1. The district would begin receiving sales tax allocations from the Comptroller's office starting in December.

HOW IS THE DISTRICT GOVERNED?

The commissioner's court of the county that creates a district may serve as the governing body of the district. Alternatively, the commissioner's court may by order appoint a board of directors to administer the district. If a board of directors is appointed, it must consist of five members appointed to staggered terms of two years.

- *The statute requires that a director must be at least 18 years of age and reside in the county in which the district is located. Members of the governing body of the district are not entitled to compensation for their service but are entitled to reimbursement for expenses incurred performing their duties.*
- *The district may contract with public or private entities, including municipalities, to perform any act the district is authorized to perform.*
- *A district may not levy an ad valorem tax.*

[Refer to **Local Government Code, Sect. 387.005** and **387.006**.]

HOW CAN THE TAX REVENUES BE USED?

The district must use the sales tax revenues to perform the following functions of the district:

- *construction, maintenance, or improvement of roads or highways;*
- *provision of law enforcement and detention services;*
- *maintenance or improvement of libraries, museums, parks or other recreational facilities;*
- *provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or*
- *promotion of economic development and tourism.*

[Refer to **Local Government Code, Sect. 387.003**.]

CAN THE TAX BE INCREASED OR DECREASED?

The commissioners court may decrease, repeal or increase the rate of district sales tax without voter approval as long as the new rate does not exceed the maximum rate approved by the voters in a previous election held under Local Government Code, Section 387.003.

If the proposed new sales tax rate would exceed the maximum rate previously authorized by the voters within the district, the change must be approved by a majority of the votes received in the district at an election held for that purpose.

A district may not adopt an increase in the tax if it would result in a combined tax rate of all local sales and use taxes of more than 2 percent in any location in the district.

[Refer to **Local Government Code, Sect. 387.010**.]

The County Assistance District Tax is overseen by the **county commissioners or a board** appointed to administer the unit.

HOW CAN THE DISTRICT BOUNDARIES BE CHANGED?

After the district is created, it can be expanded if the county commissioner's court calls and holds an election for that purpose in the territory to be added to the district. The area in which the election is held will be included in the district if a majority of the votes received at the election are in favor.

Territory also may be added to an existing county assistance district by order of its governing body on receipt of petitions signed by the owner or owners of a majority of the land in the proposed area to be included in the district. If there are no registered voters in the area to be added to the district, no election is required.

An election may not be held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed 2 percent.

The commissioner's court by order may exclude an area from a district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

[Refer to **Local Government Code, Sect.387.003(f-j)**.]

Need More Information?
For more information about the County Assistance District Sales Tax, call the Comptroller's Office's Data Analysis and Transparency Division at 844-519-5672.

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