

House Committee on Ways and Means  
November 13, 2020  
Testimony from the City of Houston

The Truth-in-Taxation provisions of Chapter 26 of the Texas Tax Code govern the steps that a taxing unit such as the City of Houston must take to adopt a tax rate in a given tax year. As you are no doubt aware, Senate Bill 2, enacted by the 86<sup>th</sup> Legislature, made significant changes—both procedural and substantive—to this annual process.

Each year, a taxing unit is required by law to calculate and submit to its governing body two particular tax rates: The no-new-revenue tax rate and the voter-approval tax rate.

- The no-new-revenue tax rate represents the tax rate needed to raise the same amount of property tax revenue from the same properties on the tax roll in both the preceding tax year and the current tax year. This rate enables the public to compare taxes for the prior year and the current year.
- The voter-approval tax rate is the maximum rate allowed by law without voter approval. This voter-approval tax rate provides the taxing unit with about the same amount of tax revenue it spent the previous year for day to day operations, plus an extra 3.5% increase, and sufficient funds to pay debts in the coming year. In the event where any part of the taxing unit 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, the taxing unit is allowed to apply an 8% increase instead of 3.5%.

To derive the no-new-revenue and voter-approval tax rates, a taxing unit is required by law to follow the steps outlined in the Comptroller's Tax Rate Calculation Worksheet (Form 50-856). The taxing unit must input certain property tax related data onto the form and upon completion of the calculations, the taxing unit arrives at the two specified rates.

The new worksheet for tax year 2020 contains a modification that was not provided for in the recent tax reform bill but results in a significant negative adjustment when compared to prior tax rate calculations for the City of Houston and other taxing units.

- The new component, Line 6c on the worksheet, is an adjustment for the prior year's property values subject to an appeal under Chapter 42, as of July 25 that are undisputed.

The form also includes new instructions for Line 1, Prior Year's Total Taxable Value, specifically that it should "[e]xclude any property value subject to an appeal under Chapter 42 as of July 25" and that undisputed value will be added in Line 6c. The net effect of these two changes is the fact that prior year's property values subject to an appeal under Chapter 42, as of July 25 that are disputed and not yet concluded are

unrecognized and lost. This will result in a negative adjustment to taxing units. When the Chapter 42 appeals are eventually settled and concluded, the adjustment will never be recovered. This would limit the City of Houston's ability to provide services in the future.

Nowhere in 2019's Senate Bill 2 does the law state that disputed value of property subject to an appeal under Chapter 42 on July 25 must be *excluded* as the Comptroller has chosen to dictate. While one new provision, Section 26.012(13)(A)(iii) of the Tax Code, does expressly provide that the value not in dispute should be included, this value has always been included on the appraisal roll.

The Comptroller's new interpretation of the law has significant ramifications for the City of Houston.

- Specifically, the disputed property value for the City - i.e. the amount of property value excluded due to the Comptroller's change - was \$10 billion, of the total value subject to an appeal under Chapter 42 on July 25.

The adjustment reduces the City's tax year 2020 no-new-revenue, no-new-revenue maintenance and operations, and voter-approval tax rates by approximately 2 cents which jeopardizes the City's ability to provide services to its residents.

For example, using tax year 2020's calculations, every cent of the tax rate generates \$21.8 million of revenue. A reduction in revenue by such an amount would mean a reduction of 102 police officers and 75 firefighters.

The City of Houston uses a local revenue cap, added to the City Charter by voters in 2004. The City of Houston's revenue cap requires voter approval for increases in ad valorem taxes in future years above a limit equal to the lesser of the actual revenues in the preceding fiscal year, plus 4.5%, or a formula that is based upon the actual revenues received in fiscal year 2005 adjusted for the cumulative combined rates of inflation and the City's population growth. The Comptroller's promulgated changes affect the City's locally adopted taxing process without a statutory basis.

Therefore, we respectfully request that the Texas legislature take steps during this session to resolve the statutory ambiguity which has resulted in the negative adjustment in the Comptroller's form.

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