



The ESD Tax Rate Process

A BRIEF OVERVIEW
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1



Disclaimer

Nothing in this presentation should be construed as legal advice or relied upon as such

Always check with your own legal counsel in determining the best course of action for your ESD

We're all just doing our best...

2



What this presentation will cover

Tax rate setting as changed by Senate Bill 2 (86th Legislative Session)

- Definitions
- Examples

Notice requirements

3



What this presentation will **NOT** cover

Other transparency issues (Special District reporting)

Exemptions (Homestead, Disabled Veteran, etc.)

Issues not germane to Emergency Services Districts

4



Special Taxing Units

Special Taxing Unit

- Taxing at less than .025 per \$100
- Junior College District
- Hospital District

Only a few ESDs fit in this category. Many of the rates discussed in this presentation do not apply to STUs.

5



Property Tax Calendar

January-April: Appraisal Process

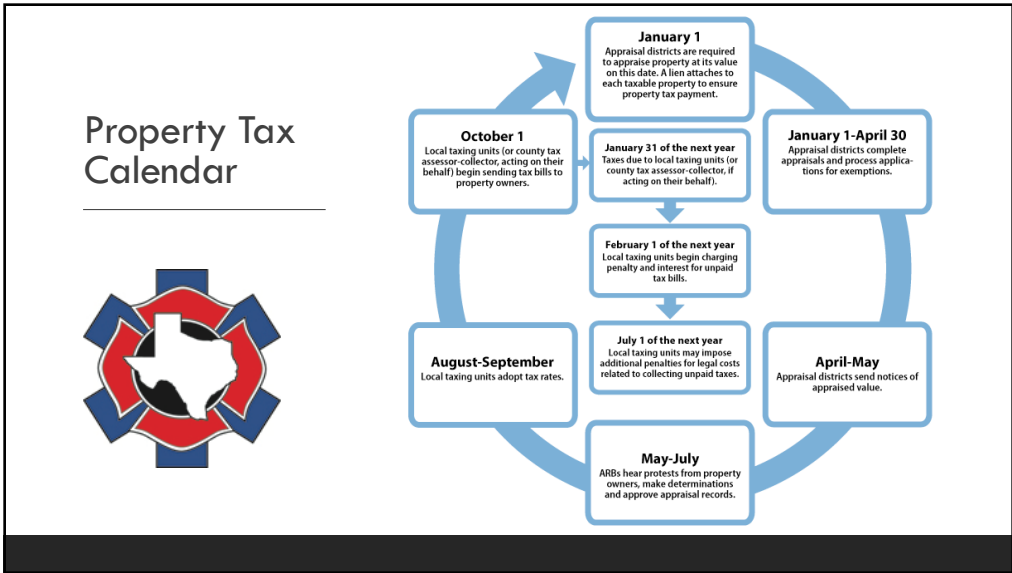
May-June: Appraisal Protest Process

July: Finalization of Appraisal Rolls

August-September: Tax Rate Setting by Gov't Units

October and beyond: Tax Collections

6



7

Budgeting

The first step in an ESD's tax rate adoption process should be **THE BUDGET!!**

- Assess current fiscal year's budget progress
- Refer to strategic plan
- Begin discussions on needs for the ESD in the coming year
- Hold Budget Workshops (April-June timeframe)

AN ESD CANNOT ADOPT A TAX RATE WITHOUT FIRST ADOPTING A BUDGET!! (Health & Safety Code CH. 775.074(d-1))

8



Where are we now?

Certification of Appraisal Rolls

- By July 25 – Chief Appraiser must certify rolls to the assessor
- IF no ARB approval by July 20 – estimate by July 25
- Must include estimates on properties under protest and properties not included on the rolls (Tax Code Sec. 26.01(a) and (a-1))

Can you get this information earlier? No April 30 estimate for ESDs (Tax Code Sec. 26.01(e))

9



Information Incoming

Rolls are submitted to taxing unit (ESD) by **August 1** (or as soon thereafter as practicable) (Tax Code Sec. 26.04 (b))


- Includes appraised, assessed, taxable property, as well as new property, for your District
- These are the values YOU need to calculate the necessary publishable rates

“An officer or employee designated by the governing body shall calculate...” (Tax Code Sec. 26.04 (c))

10

Calculating the Rates

“Designated officer of employee SHALL use the tax rate calculation forms...” (Tax Code Sec. 26.04 (d-1))



2024 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

Form 50-856

Taxing Unit Name	Phone (area code and number)
Taxing Unit's Address, City, State, ZIP Code	Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements or Comptroller Form 50-884 Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts or Comptroller Form 50-860 Developed Water District Voter-Approval Tax Rate Worksheet.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease. The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	Prior year total taxable value. Enter the amount of the prior year taxable value on the prior year tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undepreciated value in Line 6). This total includes the taxable value of homesteads with tax callings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17).	\$
2.	Prior year tax callings. Counties, cities and junior college districts. Enter the prior year total taxable value of homesteads with tax callings.	

11


Calculating the Rates...Deadline?

“By **August 7**, or ASTAP, the designated officer or employee shall submit the rates to the governing body” AND

Post on the homepage of the website

- NNR and VAR and how they were calculated (getting there)
- Fund balances
- Debt obligations (Tax Code Sec. 26.04 (e))

Important: Can't adopt a tax rate until forms are signed and certified for accuracy (Tax Code Sec. 26.04 (d-2)). **Must also send the forms to the tax assessor-collector and append to budget document** (Tax Code Sec. 26.04 (d-3) and (e-5)).



12



NEW this year (HB 3273)

The old August 7th postcard that the Appraisal District had to send? Gone.

In its place: web posting of same general info in Tax Code Sec. 26.04 (e-2) – general notice of property tax database to property owners ("Visit [Texas.gov/PropertyTaxes...](https://www.texas.gov/PropertyTaxes)) – **Form 50-313** on Comptroller's Website (Under Appraisal District Notices)

The kicker? **YOU NOW HAVE TO DO THIS SAME THING ON YOUR ESD'S WEBSITE** (Tax Code Sec. 26.04 (e-2))

13



Penalties?

Injunctive relief available if taxing unit does not comply with the steps in the process in 26.04. (Tax Code Sec. 26.04 (g))

14



Rates

NNR

NNRMO

VAR (aka the 3.5% rate)

VARSTU (aka the 8% rate)

De Minimis (DMR)

Debt Rate?

15



Rates – Basic Overview

Foundation of the whole system boils down to: what rate (on this year's property values) gives you the same tax revenue you got last year?

- Let's go with "on the same property" so it's apples-to-apples
- Now, let's exclude your debt rate if you had one and focus on only the revenue needed for your Maintenance & Operations

These are your No-New-Revenue (NNR) and No-New-Revenue from Maintenance & Operations (NNRMO)

For the purposes of calculating other rates, we use NNRMO

Hint: If your property values went up, your NNRMO will be lower than last year's adopted tax rate

16

Rates – How much more revenue?



Once you have your foundation (NNRMO, aka: what rate gives you the same revenue you got last year for M&O), then you have the artificial limits that the Legislature has placed on how much more revenue you're allowed (aka: "revenue caps")

Basic Rule: you're allowed a 3.5% increase on the NNRMO

- This is the basis of your Voter Approval Rate (still must add in debt rate and unused increment rate, if any)
- If you want to adopt a higher rate, the voters must approve it (at an election)...unless...

17

Rates – The DeMinimis Curveball



What about smaller tax revenue entities? Where a 3.5% increase is barely anything?

The Legislature has deemed that \$500,000 is a small, or minimal, amount to increase tax revenues

So, you have two paths: you can have a 3.5% increase over your NNRMO **OR** whatever rate would give you a \$500,000 increase over the NNRMO.

18

Rates – The DeMinimis Curveball



Figuring out how what rate would give you a \$500,000 increase is almost, but not quite, as straightforward as the VAR:

- Divide 500,000 by your total taxable value and multiply by 100
- For reference: \$500 million in taxable value means it would take 10 cents to get \$500,000. For \$5 billion, it takes 1 cent.

Remember, this is an “increase” in lieu of the 3.5%, so you add that rate to the NNRM (along with debt rate, if you have one)

19

A brief note on debt and debt rates...



“Debt” and “Debt Service” have specific definitions in the Tax Code (Tax Code Sec. 26.012(7) & (Tax Code Sec. 26.012(8))

- **ALTERED BY 2021 LEGISLATION (HB 1869)**

Not an arbitrary number – statute has a formula for determining current debt rate (Tax Code Sec. 26.012(4)). See also: Steps 42-48 on Form 50-856 (Tax Rate Calculation Worksheet).

CONSULT AN ATTORNEY REGARDING YOUR DEBT RATE

20



The Unused Increment Rate

Basic Concept: If you adopted a tax rate lower than the Voter Approval Rate in the last three years, you're allowed to use that difference to enhance your current VAR

It's always been compulsory, cumulative...and confusing

PLUS – it was altered in the 88th Legislature (SB 1999)

21



The Unused Increment Rate

Essentially the Legislature decided that they no longer wished to allow you to bank a specific “rate” (for instance – if the VAR was 9.5 cents and you actually adopted 9 cents, you'd bank 0.5 cent)

NOW, you must relate that rate difference to the actual property values during that tax year, in order to discover the actual dollars you went without, or “Foregone Revenue”

22

The Unused Increment Rate (UIR)

The Formula: (Tax Code Sec. 26.013) Unused Increment Rate =

$$\frac{(\text{Year 1 Foregone Revenue Amount} + \text{Year 2 Foregone Revenue Amount} + \text{Year 3 Foregone Revenue Amount})}{\text{This Year's Total Value}}$$

Foregone Revenue Amount = (Voter-approval Tax Rate - Actual Tax Rate) x Preceding Total Value

"Voter-approval Tax Rate" is the Preceding Year VAR WITHOUT the UIR and "Actual Tax Rate" is Preceding Year actual adopted rate

"Year 1" means the third tax year preceding the current tax year.

"Year 2" means the second tax year preceding the current tax year.

"Year 3" means the tax year preceding the current tax year.

23

The Unused Increment Rate

So for this year:


$$\text{Year 1 (2021)} = (\text{2021 VAR (w/o UIR)} - \text{2021 Adopted Rate}) \times \text{2021 Property Values}$$

$$\text{Year 2 (2022)} = (\text{2022 VAR (w/o UIR)} - \text{2022 Adopted Rate}) \times \text{2022 Property Values}$$

$$\text{Year 3 (2023)} = (\text{2023 VAR (w/o UIR)} - \text{2023 Adopted Rate}) \times \text{2023 Property Values}$$

Add those together. **THEN** divide by THIS YEAR'S Property Values. That rate gets added to this year's VAR. If less than "0," you don't have UIR.

24




Outcomes, Simplified

The default that the Legislature is trying to enforce: If you adopt a rate that gives you more than a 3.5% increase in M&O revenue (subject to the adjustments and exceptions), then you must ask for the voters to approve that adopted rate.

Unless... you adopt a rate that gives you less than \$500,000 more in M&O revenue. Then you do not need to get voter approval.

EXCEPT...

25



Outcomes, Simplified

Remember during the DeMinimis discussion, how it would take ten cents to raise \$500,000 on \$500 million in property values?

The Legislature realized that this could open the door to higher than intended increases. A small taxing entity could raise their significantly by using the DMR. Enter the “Voter Approval Rate Calculated **as if** the Taxing Unit were a Special Taxing Unit” or VARSTU.

Basically, you’re allowed an 8% increase in M&O before opening yourself up to a **petition to have the tax rate reduced to the VAR** (Tax Code Sec. 26.075)

26



Outcomes, Simplified

Start with: Is our proposed tax rate below the VAR?

- Yes? All good, no election or petition concern. Deadline: September 30th
- No? Go to next step

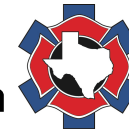
Next: If our proposed rate is over the VAR, is it under the DeMinimis?

- Yes? No election, deadline to adopt: August 26th. **But**, Is it over the VARSTU (8% increase)?
 - If yes – you're open to a petition for a "rollback" election
- No? Go to next step

Next: Is our proposed rate over both the VAR and the DeMinimis?

- Yes? Must hold a Tax Rate Approval Election. Deadline to adopt/call election: August 19th.

27



Disasters - Rate Calculation Option

May calculate VAR **as if** you were a Special Taxing Unit (aka, an 8% increase on the NNRMO) IF:

- Some part of your ESD is in an area **declared a disaster area** during the current tax year by the governor or by the president of the United States AND
- at least one person is granted a Tax Code 11.35 property tax exemption for property located in the taxing unit. (Tax Code Sec. 26.042(a))

Can continue until:

- Taxable value in your ESD is more than the taxable value was on Jan. 1 of year when the disaster took place OR
- Third tax year after the tax year where the disaster took place (Tax Code Sec. 26.042(a1-2))

28



Disasters – aftermath

CLAWBACK Provision – In the first year after the disaster exception applies, your VAR is reduced by the “Emergency Revenue Rate” (aka, what rate this year gives you the amount of extra money you got in the preceding year under the disaster exception)

- Formula in statute (Tax Code Sec. 26.042(b-c))
- Comptroller Form 50-856-a
- Very complex (Consult counsell)

29



Disasters – No Election?

Independent of an adjusted rate calculation, Tax Code Sec. 26.042(d) seems to indicate a “get out of election FREE” provision...

- “When increased expenditure of money by a taxing unit other than a school district is necessary to respond to a **(listed)** disaster...that has impacted the taxing unit and the governor has declared any part of the area in which the taxing unit is located as a disaster area, an election is not required under Section 26.07 to approve the tax rate adopted by the governing body for the year following the year in which the disaster occurs.”
- Subject to some caveats (Can’t carry forward, must specify disaster declaration...) (Tax Code Sec. 26.042(f-g))

30



Disasters – the Bottom Line

If you are thinking of utilizing the provisions in Tax Code Sec. 26.042:

CONSULT COUNSEL!!!

31




Rate Setting Process – Timeline

By **August 1** – valuation numbers should be in

August 7 – Rates (NNR/VAR/DMR - from 50-856 worksheet) must be submitted to Board and posted on website, along with additional info. This does not apply to low tax levy entities (under \$500,000) (Tax Code Sec. 26.04 (e))

At this point, your ESD should be discussing (in an open meeting) and settling on your proposed budget and tax rate.

32




Rate Setting Process – Timeline

If you are proposing a rate that exceeds the lower of the lower of the NNR or the VAR, you must hold a public hearing on the tax rate (Tax Code Sec. 26.05 (d)) **and give notice according to Tax Code Sec. 26.06.**

- Has to be at least 5 days after Chief Appraiser has delivered their required notice and set up the tax database
- Notice of hearing must be given at least 5 days before hearing
- Must give “supplemental notice” - notice of hearing must be on website for 7 continuous days immediately before hearing and vote (if those are different) (Tax Code Sec. 26.065)

33



Rate Setting Process – Hearing

Requirements (Tax Code Sec. 26.06)

- Must be held in boundaries of ESD on a non-holiday weekday
- In public building or building public has access to
- Must afford opportunities for proponents and opponents to present their views

Can vote on **both** budget and rate at hearing (votes must be separate)

- Must be a record vote (roll call)
- Must be 60 percent of the Board in favor
- Must include specific language in verbal motion to adopt (and documentation of) a order, resolution, or ordinance adopting a tax rate. (Tax Code Sec. 26.05 (b))
- If you don't vote on adopting the rate at the hearing, you must announce date, time, and location for when you will (within 7 days of hearing) (Tax Code Sec. 26.06 (d))

34



A Few Notes on Notice

35



General Notice Issues

COMPTROLLER HAS THE FORMS!!!

<https://comptroller.texas.gov/taxes/property-tax/forms/>

(Under Truth-In-Taxation Forms for Tax Rate Adoption)

ALWAYS CHECK WITH COUNSEL ON POSTING, NOTICE,
AND HEARING ISSUES

36



Taxing Unit with Low Tax Levies

Tax Code Section 26.052 has a simplified posting/notice process for a taxing unit:

- With a current rate < \$0.50/\$100
- That would levy \$500,000 or less in taxes

Exempt from August 7 posting, public hearing/notice requirements

Must still notify public by (at least 7 days before adoption):

- Mailing each property owner notice OR
- Publishing in legal notices section of newspaper with general circulation AND website

Comptroller Form **50-757** lays out notice language

37



Everyone Else...

Unless you are a Low Tax Levy ESD, your notice provisions are in **Tax Code Section 26.06, 26.061, or 26.063**

- Depends on your situation
 - What rate are you adopting and what is the proximity to the VAR?
 - Are you using the DeMinimis Rate?
- Notice may be:
 - Delivered by mail to each property owner in the taxing unit, or
 - Published in a newspaper.
 - Not in legal notices/classifieds sections
 - Must also post the notice prominently on the home page your website from date the notice is first published until the public hearing is concluded. (Tax Code Sec. 26.06)

38

Notice Examples: Election Required



Tax Code Sec. 26.06 (b-1) and (b-3): For when you've exceeded the VAR and are required to hold a tax rate approval election

Depends on whether you exceed the NNR

Special Taxing Units (under \$0.025/\$100) over the 8% limit:
Comptroller Forms **50-873** (over NNR) or **50-877** (under the NNR)

ESDs with a De Minimis but getting no help from it: Comptroller Forms **50-874** (over NNR) or **50-880** (under the NNR). Adds language from Tax Code 26.063(b)

Wording indicates that you will hold the election

39

Notice Examples: Under the VAR



Tax Code Sec. 26.06 (b-2): For when you've exceeded the NNR but not the VAR

Comptroller Form **50-876**

Wording indicates that an election is not required

40



Notice Examples: Under it all

Tax Code Sec. 26.061: For when your adopted rate is lower than the NNR and the VAR

Comptroller Form **50-883**

Everything is fine, nothing to see here (not really).

41



Notice Examples: Open to Petition

Tax Code Sec. 26.063(c): For when your adopted rate is exceeds both the VAR and the VARSTU (8%) but not the De Minimis Rate (DMR)

Depends on whether you exceed the NNR

Comptroller Forms **50-875** (over NNR) or **50-879** (under the NNR). Adds language from Tax Code 26.063(c)

Wording indicates that voters may petition for an election to reduce the tax rate to the VAR

42

Notice Examples: DM Safe Harbor

FINALLY!! – Tax Code Sec. 26.063(d) ADDED BY HB 2429 in 2021. For when your adopted rate is exceeds the VAR but NOT the VARSTU OR the De Minimis Rate (DMR)

Depends on whether you exceed the NNR

Comptroller Forms **50-878** (over NNR) or **50-887** (under the NNR). Adds language from Tax Code 26.063(d)

Wording indicates that there is no automatic election and voters may not petition for an election to reduce the tax rate to the VAR


43

Other Notice Information

Visit [Texas.gov/PropertyTaxes](https://www.texas.gov/PropertyTaxes) to find a link to your local property tax database on which you can easily access information regarding your property taxes, including information about proposed tax rates and scheduled public hearings of each entity that taxes your property.


The 86th Texas Legislature modified the manner in which the voter-approval tax rate is calculated to limit the rate of growth of property taxes in the state.

The following table compares the taxes imposed on the average residence homestead by _____ last year to the taxes proposed to be imposed on the average residence homestead by _____ this year.

Table with additional information included with notice (Tax Code Sec. 26.062) – On Comptroller Form 

	2023	2024	Change
Total tax rate (per \$100 of value)	2023 adopted tax rate	2024 proposed tax rate	(Increase/Decrease) of (nominal difference between tax rate for preceding year and proposed tax rate for current year) per \$100, or (percentage difference between tax rate for preceding year and proposed tax rate for current year)%
Average homestead taxable value	2023 average taxable value of residence homestead	2024 average taxable value of residence homestead	(Increase/Decrease) of (percentage difference between average taxable value of residence homestead for preceding year and current year)%
Tax on average homestead	2023 amount of taxes on average taxable value of residence homestead	2024 amount of taxes on average taxable value of residence homestead	(Increase/Decrease) of (nominal difference between amount of taxes imposed on the average taxable value of a residence homestead in the preceding year and the amount of taxes proposed on the average taxable value of a residence homestead in the current year), or (percentage difference between taxes imposed for preceding year and taxes proposed for current year)%

44




Website Posting

Website information (Tax Code Sec. 26.18): "Each taxing unit **shall** maintain an Internet website or have access to a generally accessible Internet website that may be used for the purposes of this section."

Must post: (1) the name of each member of the governing body of the taxing unit; (2) the mailing address, e-mail address, and telephone number of the taxing unit; (3) the official contact information for each member of the governing body of the taxing unit, if that information is different from the information described by Subdivision (2); (4) the taxing unit's budget for the preceding two years; (5) the taxing unit's proposed or adopted budget for the current year; (6) the change in the amount of the taxing unit's budget from the preceding year to the current year, by dollar amount and percentage; (7) the amount of property tax revenue budgeted for maintenance and operations for: (A) the preceding two years; and (B) the current year; (8) the amount of property tax revenue budgeted for debt service for: (A) the preceding two years; and (B) the current year; (9) the tax rate for maintenance and operations adopted by the taxing unit for the preceding two years; (10) the tax rate for debt service adopted by the taxing unit for the preceding two years; (11) the tax rate for maintenance and operations proposed by the taxing unit for the current year; (12) the tax rate for debt service proposed by the taxing unit for the current year; and (13) the most recent financial audit of the taxing unit

45



Rates, Expanded

***These slides not featured in live webcast presentation**

NNR

NNRMO

VAR (aka the 3.5% rate)

VARSTU (aka the 8% rate)

De Minimis (DMR)

46

The No-New-Revenue Rate (NNR)

Formerly known as the “Effective Rate”

Basic Concept: The rate that gives you the same amount of tax revenue you received last year from the same property that you taxed last year, when applied to this year’s values.

Expressed as a formula (Tax Code Sec. 26.04):

$$\frac{\text{(LAST YEAR'S LEVY - LOST PROPERTY LEVY)}}{\text{(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)}}$$

47

The No-New-Revenue Rate (NNR), Defined

Last Year’s Levy (Tax Code Sec. 26.012(13))

- Basic Concept: Last year’s total tax rate multiplied by the total property value on last year’s appraisal roll
- Last year’s value is subject to some adjustments
- Plus taxes refunded last year for prior years

Lost Property Levy (Tax Code Sec. 26.012(15))

- Basic Concept: Amount of taxes levied last year on property that is no longer on the tax rolls
- Examples: De-annexed property, Property qualifying for exemptions for the first time

Appraisal District will have these numbers

48

The No-New-Revenue Rate (NNR), Defined



Current Total Value (Tax Code Sec. 26.012(6))

- Basic Concept: Total taxable property value listed on the appraisal roll for the current year
- Subject to some adjustments
- Includes property on certified roll PLUS property under protest or not otherwise included on certified roll

New Property Value (Tax Code Sec. 26.012(1.5))

- Basic Concept: Value of property that was not on the appraisal roll in the preceding year
- Examples: Annexed property, New improvements on property, personal property in new improvements

Again, the Appraisal District will have these numbers

The No-New-Revenue Rate (NNR)



Formerly known as the "Effective Rate"

Basic Concept: The rate that gives you the same amount of tax revenue you received last year from the same property as last year, when applied to this year's values.

Expressed as a formula (Tax Code Sec. 26.04):

$$\frac{\text{(LAST YEAR'S LEVY - LOST PROPERTY LEVY)}}{\text{(CURRENT TOTAL VALUE - NEW PROPERTY VALUE)}}$$

BUT...

The No-New-Revenue Rate from Maintenance & Operations (NNRMO)



Different from NNR

Basic Concept: The rate that gives you the same amount of tax revenue from Maintenance & Operations you received last year from the same property you taxed last year, when applied to this year's values.

Expressed as a formula: (Tax Code Sec. 26.012(18))

$$(LAST\ YEAR'S\ LEVY - LAST\ YEAR'S\ DEBT\ LEVY)$$

DIVIDED BY

$$(CURRENT\ TOTAL\ VALUE - NEW\ PROPERTY\ VALUE)$$

Last Year's Debt Levy: (Tax Code Sec. 26.012(11)) Last year's debt rate multiplied by last year's total value (does not omit lost property levy)

NNRMO is the foundation for all other rates

The Voter Approval Rate (VAR)



Basic Concept: The rate that gives you a 3.5% increase in **Maintenance & Operations** tax revenue from the preceding year

Expressed as a formula: (Tax Code Sec. 26.04(c)(2))

$$(NNRMO \times 1.035) + (Current\ Debt\ Rate + Unused\ Increment\ Rate)$$

The Voter Approval Rate for a Special Taxing Unit (VARSTU)



Basic Concept: The rate that gives you an 8% increase in **Maintenance & Operations** tax revenue from the preceding year

Expressed as a formula: (Tax Code Sec. 26.04(c)(2))

$$(\text{NNRMO} \times 1.08) + (\text{Current Debt Rate})$$

53

The De Minimis Rate (DMR)



Basic Concept: The rate that gives you a \$500,000 increase in **Maintenance & Operations** tax revenue from the preceding year

\$500,000 Rate: Rate, when applied to this year's value, that would give you \$500,000 in revenue

- Formula: $500,000 / \text{Current Total Value} * 100$
- Example 1: \$5 Billion in taxable value – would take \$.01/\$100 to raise \$500,000
- Example 2: \$500 Million in taxable value – would take \$.10/\$100 to raise \$500,000

DMR Expressed as a formula: (Tax Code Sec. 26.012(8-a))

$$\text{NNRMO} + \text{Current Debt Rate} + \$500,000 \text{ Rate}$$

54



Outcomes, Expanded

***These slides not featured in live webcast presentation**

Automatic Election

Subject to Petition for Election

Using the DeMinimis “Safe Harbor”

Staying below the Voter Approval Rate

55



Outcomes – Automatic Election

If your ESD adopts a rate that is **greater than the greater** of the VAR or the DMR, then you must hold a tax rate approval election on the next uniform election date in November (Tax Code Sec. 26.07)

Because you are exceeding the VAR, your budget and tax rate must be adopted by the **71st day** before the uniform election date: August 26th, 2024 (Tax Code Sec. 26.05)

However, the Election Code (which supersedes in case of conflict) mandates that the election actually be ordered by the **78th day** before the uniform election date : August 19th, 2024 (Election Code Sec. 3.005)

56

Outcomes – Petition for election



If your ESD adopts a rate that is **greater than the VAR and the VARSTU (the 8% rate) but less than the DMR**, then the voters of your ESD may file a petition for an election to reduce the tax rate to the VAR (Tax Code Sec. 26.075)

Because you are exceeding the VAR, your budget and tax rate must be adopted by the **71st day** before the uniform election date: August 26th, 2024 (Tax Code Sec. 26.05)

Consult counsel on petition qualifications and timing

57

Outcomes – Using the De Minimis



If your ESD adopts a rate that is **greater than the VAR but less than both the VARSTU (the 8% rate) and the DMR**, then there will be no automatic election and no possibility of petition for election (Tax Code Sec. 26.07)

However, because you are exceeding the VAR, your budget and tax rate *still* must be adopted by the **71st day** before the uniform election date: August 26th, 2024 (Tax Code Sec. 26.05)

58

Outcomes – Staying below the VAR



If your ESD adopts a rate that is **at or below the VAR**, then there will be no automatic election and no possibility of petition for election (Tax Code Sec. 26.07)

You have until September 30th to adopt your budget and tax rate

May be able to accumulate Unused Increment Rate for future use