



## INCREASING PROPERTY TAX ACCOUNTABILITY IN THE DIGITAL AGE

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“Increasing Property Tax Accountability in the Digital Age”

Although population and economic factors have played a role in rising property tax levies in Texas over the last 30 years, a growing population and rising property values do not necessarily translate to higher levies. Property tax levies are the end product of a complex legal process created by the state legislature, outlined in the Texas Tax Code, and administered by local officials.<sup>1</sup> As recent demands for property tax relief demonstrate, that process has not afforded the businesses and homeowners of Texas the degree of control over property tax levies that they wish to have, prompting legislators to propose a lower rollback rate in both the 2017 and 2019 legislative sessions.<sup>2</sup> Technology of the digital age offers an attractive alternative to after-the-fact rollback elections and state limitations on local decision-making. State lawmakers, as the creators of the property tax process, have the power to legislate changes that will deliver clearer, timely, more relevant information to property owners and simultaneously give them a practical, modern tool to contain their local property tax burden at the desired level.

### Appraised Value and Tax Rate

The annual process for levying the property tax is concerned with two events: the appraisal of property and the adoption of tax rates.<sup>3</sup> In this process, property owners have the opportunity to give input on appraised value each year and on tax rates in any year a tax increase is proposed. If a taxpayer disagrees with the appraisal of his or her property in a given year, the taxpayer may file a written protest with the county appraisal district and is entitled to a hearing and decision on his protest.<sup>4</sup> Later in the property tax year, if the tax rate proposed by the taxing unit (other than a school district) represents a tax increase, the governing body of the taxing unit must hold two public hearings before adopting the tax rate.<sup>5</sup> Any person—a homeowner, a business owner, or even a person who is not a property owner or a registered voter—may voice his or her opinion about the tax rate proposed for that year.<sup>6</sup>

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<sup>1</sup> Chapters 1 through 43 of the Texas Tax Code.

<sup>2</sup> The rollback rate is the highest property tax rate that a taxing unit may adopt in a tax year without the possibility that voters will force a reduction in the tax rate. Tex. Tax Code §§ 26.07(a), 26.08(a).

<sup>3</sup> The property tax levy is the amount of tax a property owner is required to pay to a taxing unit. The levy is determined by multiplying the taxable value of a property by the tax rate adopted by the taxing unit. Tex. Tax Code § 26.09(c)(4). The taxing unit is a city, county, school district, or special purpose district (such as a college, hospital or water district) that is authorized by state law to impose a property tax. Tex. Tax Code § 1.04(12).

<sup>4</sup> Tex. Tax Code §§ 41.41(a), 41.44(a), 41.45, 41.47.

<sup>5</sup> Tex. Tax Code § 26.05(d) (“The governing body of a taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the rollback tax rate or the effective tax rate calculated as provided by this chapter until the governing body has held two public hearings on the proposed tax rate...”).

<sup>6</sup> Tex. Tax Code § 26.06(a) (“At the hearings, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.”).

## Taxpayer Participation in the Appraisal and Tax Rate Processes

Although property owners have the opportunity to give input to both the appraisal process and the tax rate process when a tax increase is proposed, generally property owners only give input in the appraisal process and rarely utilize the opportunity to participate in the tax rate process. A taxing unit other than a school district is required to hold two public hearings before adopting a tax rate that exceeds the effective tax rate.<sup>7</sup> The following tables show the number of protests filed in the five most populous counties and the number of people who gave testimony at the tax rate hearings of those counties in 2016 and 2017. With the exception of Harris County in 2017, the tax rate adopted by each county exceeded the effective tax rate<sup>8</sup> and therefore represented a tax increase for county taxpayers.<sup>9</sup> While property owners filed appraisal protests in high numbers, very few people expressed their views on the proposed tax rates to the county commissioners court.

**Table 1.** Comparison of Appraisal Protests and Tax Rate Hearing Participation in the Five Most Populous Counties in 2016<sup>10</sup>

	2016 Effective Tax Rate	2016 Adopted Tax Rate	Number of Parcels on 2016 Appraisal Roll	Number of Appraisal Protests Filed in 2016	Percent of Parcels with Appraisal Protests in 2016	Number of Witnesses at 2016 Tax Rate Hearings
Bexar County	0.299124	0.30895	671,217	95,721	14.26%	0
Dallas County	0.226385	0.24310	828,387	117,271	14.16%	16
Harris County	0.409600	0.41656	1,623,452	382,555	23.56%	0
Tarrant County	0.248466	0.25400	1,253,623	105,132	8.39%	4
Travis County	0.374700	0.38380	423,981	115,733	27.30%	14

Source: Texas Comptroller of Public Accounts; County Commissioners Courts

<sup>7</sup> See supra note 5.

<sup>8</sup> The effective tax rate is the tax rate that would raise the same amount of tax revenue in the current year as in the previous tax year from property that is taxable in both the current tax year and the previous tax year. Tex. Tax Code § 26.16(d). The effective tax rate is intended to represent the highest tax rate that would not constitute a tax increase, after taking into account changes in the appraised value of property. See Tex. Tax Code § 26.052(e)(3).

<sup>9</sup> Tex. Tax Code §§ 26.05(d), 26.06(a).

<sup>10</sup> The number of parcels on the appraisal roll and the number of protests filed are from the Texas Comptroller of Public Accounts, Appraisal District Operations Surveys at <https://comptroller.texas.gov/taxes/property-tax/reports/index.php>. The effective tax rate and adopted tax rate are from the Texas Comptroller of Public Accounts, Tax Rates and Levies at <https://comptroller.texas.gov/taxes/property-tax/rates/index.php>. The number of witnesses at tax rate hearings were compiled from the meeting minutes (where available) or the video archives of the county commissioners courts. For Travis County, the number of witnesses includes county employees testifying in their official capacities who were recorded as witnesses in the minutes.

**Table 2.** Comparison of Appraisal Protests and Tax Rate Hearing Participation in the Five Most Populous Counties in 2017<sup>11</sup>

	2017 Effective Tax Rate	2017 Adopted Tax Rate	Number of Parcels on 2017 Appraisal Roll	Number of Appraisal Protests Filed in 2017	Percentage of Parcels with Appraisal Protests in 2017	Number of Witnesses at 2017 Tax Rate Hearings
Bexar County	0.299816	0.304097	679,088	103,268	15.21%	0
Dallas County	0.231671	0.243100	830,464	126,967	15.29%	0
Harris County	0.419160	0.418010	1,826,786	388,762	21.28%	Not applicable
Tarrant County	0.239780	0.244000	1,755,231	285,854	16.29%	1
Travis County	0.356800	0.369000	431,339	126,425	29.31%	7

Source: Texas Comptroller of Public Accounts; County Commissioner Courts

### **Tax Rate is Discretionary; Appraised Value Is Not**

The imbalance in taxpayer participation demonstrates that taxpayers are motivated to lower their property taxes but are acting ineffectively. While they file appraisal protests in high numbers, property owners are failing to give input to the part of the process that is actually discretionary, controllable, and determinative on property tax increases. Appraised value is required by the Texas Constitution to be market value.<sup>12</sup> Market value is determined by the market and not by appraisal districts. The role of the appraisal district is merely to identify market value. Identifying market value in the digital age is an analytical, data-driven process with less tolerance for subjectivity than in the past. On the other hand, the tax rate of a taxing unit can be any number from zero to the statutory or constitutional limit applicable to the taxing unit. Those limits are shown in the following table.

<sup>11</sup> Ibid.

<sup>12</sup> Tex. Const. art. VIII, § 1(b).

**Table 3.** Maximum Property Tax Rates for Local Taxing Units in Texas

Type of Taxing Unit	Maximum Tax Rate Per \$100 of Value	Authority
City with Population ≤ 5,000	\$1.50	Tex. Const. art. XI, § 4
City with Population > 5,000	\$2.50	Tex. Const. art. XI, § 5
Community College District	\$1.50	Tex. Educ. Code § 130.122(a)
County	\$1.25	Tex. Const. art. VIII, §§ 1-a, 9(a)-(b).
Emergency Services District	\$0.10	Tex. Const. art. III, § 48-e
Hospital District	\$0.75	Tex. Const. art. IX, §§ 5, 8, 9, 11
School District	\$1.67	Tex. Educ. Code §§ 45.003(d)-(e), 45.0031(a).

Source: Constitution of the State of Texas, Texas Education Code

Most property tax rates in Texas are well below the maximum rates allowed by law.<sup>13</sup> The maximum tax rate a county may impose is \$1.25, but in 2017, the highest tax rate levied by any county was \$1.15 (Jim Hogg County). Sixty percent of counties levied a tax rate under \$0.60. The tax rate in Harris County, which had the highest total tax levy at \$1.8 billion, was slightly under \$0.42 in 2017. The picture is similar for city tax rates. The maximum tax rate a city may levy is \$1.50 if its population is 5,000 or less and \$2.50 if its population is more than 5,000. In 2017, the city of Darrouzett in Lipscomb County levied the highest tax rate at \$1.48, and roughly half of all cities were under \$0.80. The tax rate in the city of Houston, which had the highest total levy at \$1.3 billion, was a fraction more than \$0.58. If a single property were located in a city, county, school district, hospital district, emergency services district, and community college district that levied the highest possible rate, the total tax rate would be \$7.77. No property in Texas comes anywhere close to suffering under a property tax rate of that magnitude. In 2017, all taxable property in Texas was taxed at an average rate of \$2.50.<sup>14</sup>

Thus, while the appraisal process seeks to be objective, the tax rate—and therefore the tax levy—is almost entirely discretionary.<sup>15</sup> The tax rate is the final and determinative step in

<sup>13</sup> See Texas Comptroller of Public Accounts, Tax Rates and Levies 2017 at <https://comptroller.texas.gov/taxes/property-tax/rates/index.php>, for 2017 property tax rates.

<sup>14</sup> In 2017, the total amount of property tax collected by all taxing units was \$59,406,974,665, and the total taxable value of all property in Texas was \$2,372,613,114,570. Dividing the total levy by the total taxable value, the statewide average tax rate was \$2.50 per \$100. See Texas Comptroller of Public Accounts, Biennial Property Tax Report, Tax Years 2016 and 2017 at <https://comptroller.texas.gov/taxes/property-tax/docs/96-1728.pdf>.

<sup>15</sup> The difference between the maximum tax rates allowed by law and the tax rates usually adopted by local taxing units show how broad that discretion is.

the property tax levy, while appraised value is only an input to that step.<sup>16</sup> Appraised values cannot be controlled because the market cannot be controlled, but taxing units have the ability to control their property tax levies by controlling their expenditures and, in turn, the tax rates that must be levied to fund their expenditures. The truth-in-taxation measures in the Texas Constitution and the Tax Code demonstrate that local elected officials are expected to levy property taxes only at levels acceptable to the electorate.<sup>17</sup> If participation in the discretionary rate-setting process can be increased, the responsiveness of local elected officials to the taxpaying public—and the public’s ability to contain property tax levies if they desire—will likely increase as well.

### Understanding the Imbalance in Taxpayer Participation

The imbalance in taxpayer participation in the appraisal process and in the tax rate process is a defect of design. Taxpayers readily participate in the appraisal process because contesting an appraised value is an individual, streamlined process, one that can be—and frequently is—hired out to a consultant. In 2017, 52% of appraisal protests were filed by property tax agents on behalf of property owners.<sup>18</sup> Opposing a proposed tax rate, on the other hand, is a fragmented, time-consuming process that requires considerable personal resources and ultimately calls for a community effort.<sup>19</sup> Moreover, since most properties in Texas lie within several taxing units, the amount of time required to give input on all tax rates for a single property makes it a daunting task. For example, the property at 705 Main Street in downtown Houston, like other properties in downtown Houston, currently lies within nine taxing units.<sup>20</sup>

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<sup>16</sup> See *supra* note 3.

<sup>17</sup> See Tex. Const. art. VIII, § 21 and *supra* notes 5, 6 and 8.

<sup>18</sup> Texas Comptroller of Public Accounts, Appraisal District Operations Surveys for 2017.

<sup>19</sup> Tex. Tax Code §§ 26.07(a) (“If the governing body of a taxing unit other than a school district adopts a tax rate that exceeds the rollback tax rate calculated as provided by this chapter, the qualified voters of the taxing unit by petition may require that an election be held to determine whether or not to reduce the tax rate adopted for the current year to the rollback tax rate...”) (emphasis added).

<sup>20</sup> The taxing units are Houston Independent School District, Harris County, Harris County Flood Control District, Port of Houston Authority, Harris Health System (f/k/a Harris County Hospital District), Harris County Education Department, Houston Community College district, City of Houston, and Houston Downtown Management District.

**Table 4. Comparison of the Appraisal Protest Process and the Tax Rate Process**

Protesting an Appraised Value	Opposing a Proposed Tax Rate
Each property owner receives an individualized appraisal notice. <sup>21</sup>	Proposed tax rates and hearings notices are customarily published in the newspaper and on the taxing unit and county websites. <sup>22</sup>
An appraisal protest is an individual act. <sup>23</sup> A property owner can protest an appraised value without conferring with his neighbors or the larger community.	Testifying at a public hearing of a taxing unit is an individual act, but petitioning for a rollback election and campaigning to rollback tax rate require a community effort.
Protesting an appraisal is an immediate and direct act. A property owner can file a protest notice and go through the protest hearing any year, every year. The law guarantees that his protest will be heard and decided.	A property owner can change a tax rate only indirectly, either by convincing local elected officials not to adopt a proposed tax rate or by petitioning for or campaigning in a rollback election. After the fact, a property owner can campaign and vote against incumbent local elected officials in the next election.
A property owner can hire an agent for a reasonable fee—even a contingent fee—to protest an appraised value on his behalf.	A property owner must invest his own time, and possibly money, to attend public hearings, petition for a rollback election, campaign in a rollback election, or campaign against local elected officials.
Appraisals are centralized. A property owner has to deal with only one office, the appraisal district, to protest an appraisal.	Tax rate authority is de-centralized, as each taxing unit determines its own budget and tax rate. It is difficult and time-consuming to monitor the actions of all taxing units and object to tax increases effectively.

Source: Texas Tax Code

<sup>21</sup> See Tex. Tax Code § 25.19(a).

<sup>22</sup> See Tex. Tax Code §§ 26.04(e) (requiring delivery by mail to each property owner or by publication in a newspaper), 26.06(c) (requiring notice (i) by publication on the taxing unit’s website and (ii) by mail or in the newspaper), 26.065(b)-(c) (requiring publication on the taxing unit’s website and free-access television), 26.016 (requiring publication on county website).

<sup>23</sup> Tex. Tax Code §§ 41.41(a), 41.44(a).



## Current Appraisal Notices Contribute to Over-Participation in the Appraisal Process

Over-participation in the appraisal process occurs when a property owner files an appraisal protest to contest a tax rate or tax levy, not the appraised value itself. The Tax Code requires the appraisal notice delivered to each homeowner to include an estimate of the current year’s property tax levy, based on the current year’s appraised value and the prior year’s tax rate.<sup>24</sup> The following is an example of the estimate of taxes required to appear on appraisal notices:

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
06	BEXAR CO RD & FLOOD	0.023668	\$323,050	\$320,050	\$69.20	\$69.20
08	SA RIVER AUTH	0.018580	\$323,050	\$313,050	\$58.16	
09	ALAMO COM COLLEGE	0.149150	\$323,050	\$293,050	\$256.81	\$256.81
10	UNIV HEALTH SYSTEM	0.276235	\$323,050	\$313,050	\$864.75	
11	BEXAR COUNTY	0.277429	\$323,050	\$273,050	\$504.24	\$504.24
21	CITY OF SAN ANTONIO	0.558270	\$323,050	\$258,050	\$892.04	\$892.04
55	NORTH EAST ISD	1.360000	\$323,050	\$274,720	\$2,419.34	\$2,419.34
CAD	BEXAR APPRAISAL DISTRICT	0.000000	\$323,050	\$323,050	\$0.00	
Total Tax Rate:		2.663332				
					Taxes w/Current Exemptions:	\$5,064.54
					Taxes w/o Exemptions:	\$8,603.89

This estimate should be eliminated from the appraisal notice because it is misleading. When an appraisal notice is issued, the tax rate for the current year is not yet known and, as noted above, may be any number from zero to the constitutional or statutory limit. To estimate the property tax levy by applying last year’s tax rate to the current year’s appraised value is simply a work of fiction. The inclusion of an estimated levy on the appraisal notice leads some taxpayers to file an appraisal protest because they believe the protest is the appropriate vehicle to express opposition to the estimated tax levy, even if they agree with the appraised value.<sup>25</sup> Over-participation in the protest process consumes resources that appraisal districts could instead use to address genuine protests of appraised value.

## Improving Participation by Bringing Tax Rate Notices into the Digital Age

The advent of the digital age makes possible detailed, customized communications with taxpayers that were unimaginable when truth-in-taxation measures were first enacted in Texas in 1978.<sup>26</sup> To facilitate the participation of property owners in the tax rate processes of local taxing units, the state legislature should create a process in law, similar to the existing process for appraisal notices, for informing taxpayers of the tax rates proposed by their local taxing units. Each property owner should receive a single, customized, timely,

<sup>24</sup> Tex. Tax Code § 25.19(b)(5).

<sup>25</sup> Testimony of Marya Crigler, Chief Appraiser of Travis County, Texas House of Representatives Committee on Ways & Means, February 27, 2019; Testimony of Brent South, Chief Appraiser of Hunt County, Texas House of Representatives Committee on Ways & Means, September 26, 2016.

<sup>26</sup> Tex. Const. art. VIII, § 21 (added Nov. 7, 1978; amended Nov. 3, 1981).

electronic notice showing all of the proposed tax rates applicable to that owner's property. The electronic notice should allow property owners to express their support for, or opposition to, the proposed tax rate of each taxing unit with the click of a mouse. Taxing units need not be required by law to act according to the preferences expressed by property owners, but taxing units should be required by statute to read a tally of supporting and opposing feedback in an open meeting before adopting the tax rate and to record the tally in the meeting minutes or video recording. The end result would be a public record of whether local elected officials acted in accordance with local preferences on property tax.

### **Tax Rate Notices Should Follow the Proven Model of Appraisal Notices**

The customized, combined, electronic tax rate notice and feedback system would reshape the tax rate process to resemble the process for appraisal protests, which has a high participation rate. With the electronic tax rate notice, supporting or opposing property tax increases would be transformed from a fragmented, time-consuming process requiring a community effort to a consolidated, streamlined process that each individual property owner could undertake independently and conveniently. The result would be a new channel for property owners to provide timely feedback to their local elected officials about the property tax burden that the local community finds tolerable or desirable.

### **Recommendations**

- Eliminate from appraisal notices the estimated property tax levy based on the current year's assessed value and the prior year's tax rate, and thereby help property owners understand that the appraisal process is separate and distinct from the tax rate process.
- Bring the power of the digital age to the property tax process by creating an individualized, timely, electronic tax rate notice that contains the actual proposed tax rate and effective tax rate, applied to the taxable value of the individual owner's property. The tax rate notice would be analogous to the appraisal notice under current law in that it would deliver accurate, customized information to property owners about how the tax rates proposed by their local governments would affect their property tax bill.
- Create a system for property owners to provide feedback electronically to local elected officials on the proposed tax rate, and thereby transform the process for opposing property tax increases from a fragmented, time-consuming process requiring a community effort to a consolidated, streamlined process that every property owner could undertake independently and conveniently.