

ESD Sales Tax: Advanced Topics and Issues

2024 SAFE-D Conference

Irving Convention Center at Las Colinas

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Topics to Cover

- Foundations of Texas Sales Tax
 - Basic terminology and tools
- Advanced Concepts
 - Appreciate the nuance
- Understand Your Sales Tax
 - Confidential Data
 - Budget with greater clarity
- Leverage Your Knowledge
 - Recognize opportunities
 - Monitor the sales tax landscape

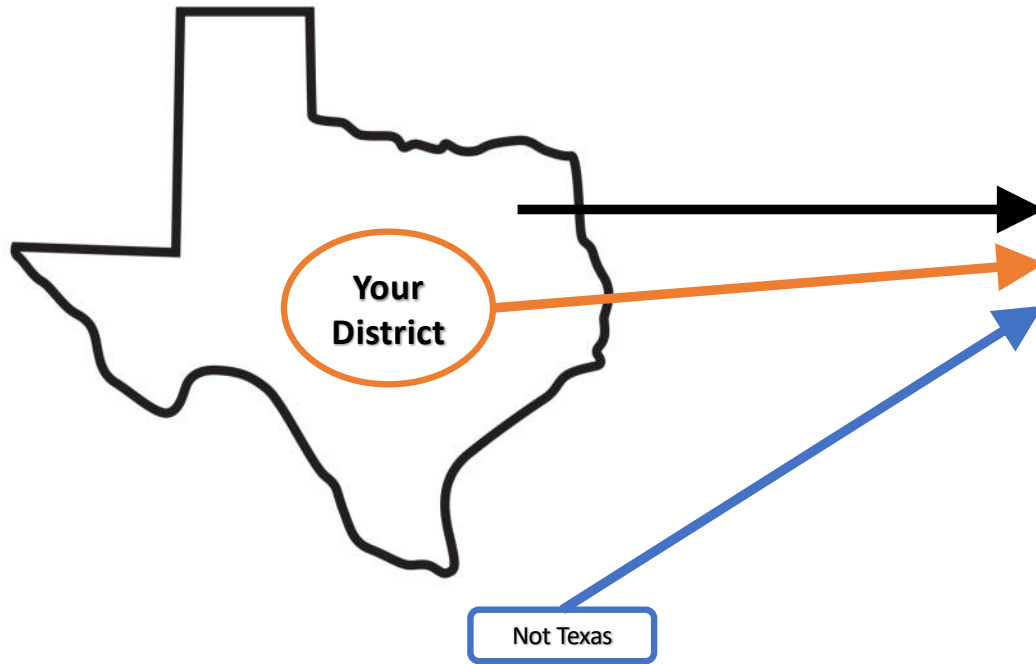
Foundations of Texas Sales Tax

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Where Your Sales Tax Originates

Where the business is located



Your District's Sales Tax Collections





In-District Businesses

Not all businesses will generate sales tax

Businesses that typically report to the District in which they are located include:

- Retail stores
- Restaurants
- Building materials sellers
- Real property services (lawncare, pest control, janitorial services)



Out-of-District Businesses

You should expect to receive tax from the following types of businesses located outside of your District:

- Internet retailers delivering to customers in your District
ex: Amazon, eBay, Walmart.com
- Businesses providing services to customers in your District
 - Cable and streaming services
 - Waste collection
 - Commercial real property repair



Where Your Sales Tax Originates

Number of Taxpayers	ESD A	ESD B	ESD C	ESD D
In-District Businesses	80.5%	74.0%	13.9%	10.3%
Out-of-District Businesses	19.5%	26.0%	86.1%	89.7%

Advanced Sales Tax Concepts

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Nuances of Texas Sales Tax

What is a “place of business” as defined by Comptroller?

- A location operated for the purpose of selling taxable items.
 - Taxable items include tangible personal property and taxable services.
- Receives 3 or more orders per year
 - Presence of sales personnel required
 - Does NOT include online orders



Nuances of Texas Sales Tax

Are these examples of a “place of business”?

NO	Maybe?	YES
Website	Distribution Center	Retail Store
	Manufacturing Facility	Restaurant
	Home Office	



Nuances of Texas Sales Tax

Texas employs a hybrid model of determining where local sales tax is due

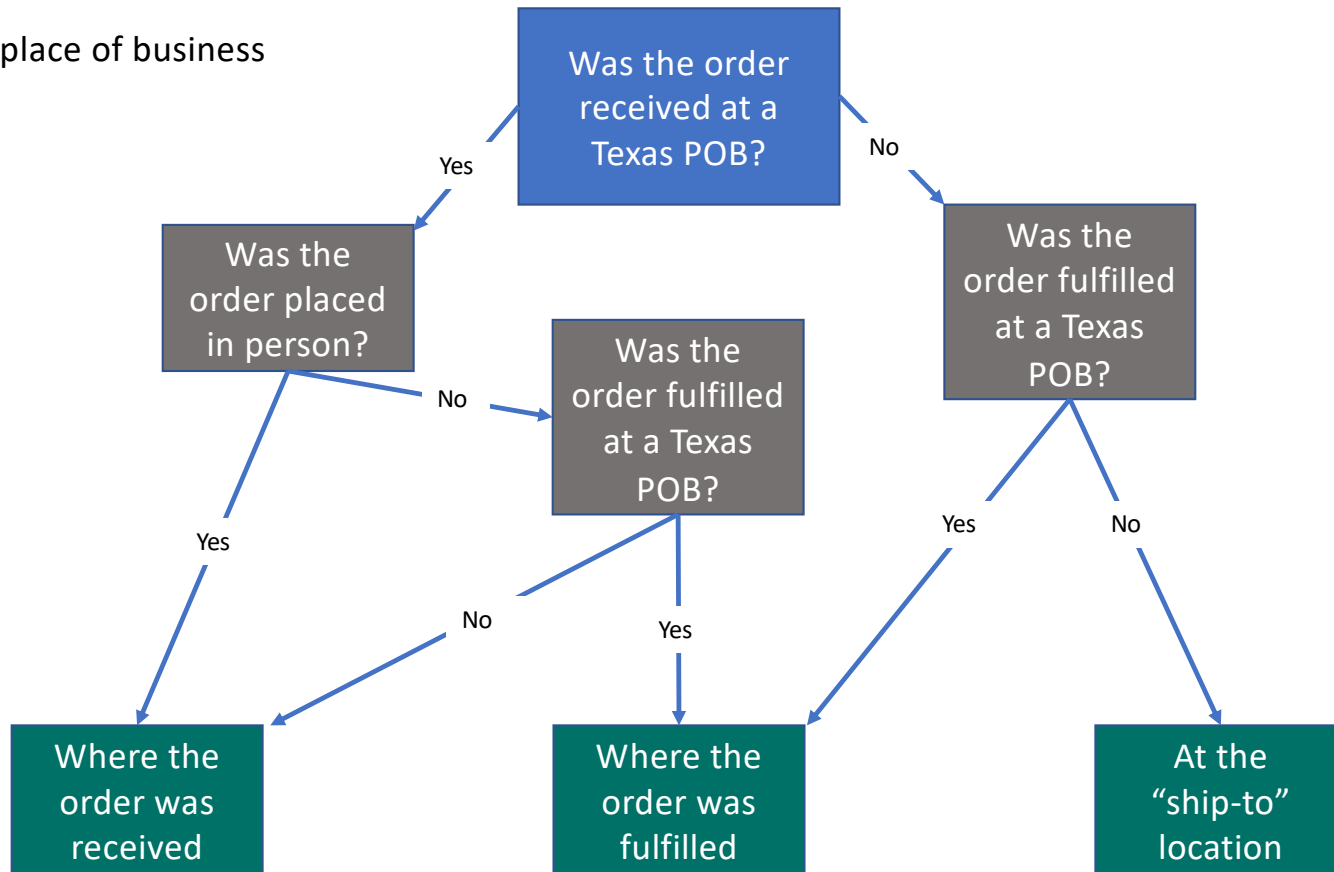
Local sales tax can be sourced based on 1 of 3 possible locations:

1. Place of business where the order was received
2. Place of business where the order was fulfilled
3. At the “ship-to” location



Nuances of Texas Sales Tax

POB = place of business



Sales Tax due:



Nuances of Texas Sales Tax

Example: Lumber

Situation 1: Customer buys lumber in person at hardware store A

Outcome: Tax is due based on the location of hardware store A

Situation 2: Customer orders lumber (not in person) from hardware store A
and product is delivered from hardware store B

Outcome: Tax is due based on the location of hardware store B

Situation 3: Customer orders lumber online, and it is delivered to the
customer directly from out of state

Outcome: Tax is due based on the address where the lumber is delivered

Understanding Your Sales Tax

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Allocation Payment Detail

Sample County ESD 1
Local Code: 5XXXXXX

Allocation Period: Sep 2023	
(A) Total Collections (=B+C+D+E+F+G):	2,094,615.45
(B) Prior Period Collections:	49,677.51
(C) Current Period Collections:	1,991,878.75
(D) Future Period Collections:	1,499.85
(E) Audit Collections:	50,252.70
(F) Unidentified Collections:	1,306.64
(G) Single Local Rate Collections:	3,201.74
(H) Service Fee (2% of A):	41,892.31
(I) Current Retained (2% of A):	41,054.46
(J) Prior Retained (2% Prior month A):	49,182.54
(K) Net Payment (A-H-I+J):	2,064,052.96



How to Know More

Request your Confidential Detail Report!

- Must be requested each month by an authorized personnel
- Is strictly for the use of forecasting and internal auditing
- Provides taxpayer level detail

Requires some skill to
organize & generate insights



How does it apply to your District

Understand your District's sales tax profile

- Who are your key players?
- How diverse and sustainable is your sales tax base?
- Budget sales tax with greater clarity



Who Are Your Key Players?

Do you know who your number one taxpayer is?

What percentage of your sales tax originates from this taxpayer?

Are this taxpayer's sales tax collections stable? Reliable?

What about your top ten taxpayers? Top 100?



Who Are Your Key Players?

Number of Taxpayers	ESD A	ESD B	ESD C	ESD D
#1	9.9%	6.0%	19.8%	14.7%
Top 10	37.1%	21.7%	56.5%	61.5%
Top 100	67.5%	56.4%	84.3%	98.6%



Business Groups

Statewide*	Business Group	ESD A	ESD B	ESD C
28%	Construction and Manufacturing	31%	39%	12%
8%	Internet Retail	10%	14%	46%
25%	General Retail	24%	15%	12%
11%	Utilities and Other Taxable Services	5%	10%	13%
9%	Professional and Financial	6%	9%	15%
6%	Grocery Stores and Pharmacy	8%	6%	0%
12%	Restaurants and Entertainment	13%	5%	1%
1%	Unclassified	3%	2%	1%

* Based on HdL client data



Assess Sustainability vs Vulnerability

- **Sustainable** – sales tax that, based on its nature, is likely to continue. These tax dollars can more confidently be considered in long-term budget forecasting.
- **Vulnerable** – sales tax that, based on its nature, may not continue. These tax dollars are realized only one time or for a short period of time and should therefore not be considered when budgeting future sales tax.



Budget Sales Tax Smarter

Key Considerations:

- Month-over-month sales tax is not a flat trend line
 - Same month year-over-year comparisons optimal
- Quarterly allocation spikes due to quarterly tax filings
 - February, May, August, November
- February allocation typically highest of year
 - Confluence of quarterly and annual reports with holiday retail season
- District-specific nuances
 - Seasonality
 - Annual events



How to Budget Sales Tax

Baseline Expected Growth Rate Budget

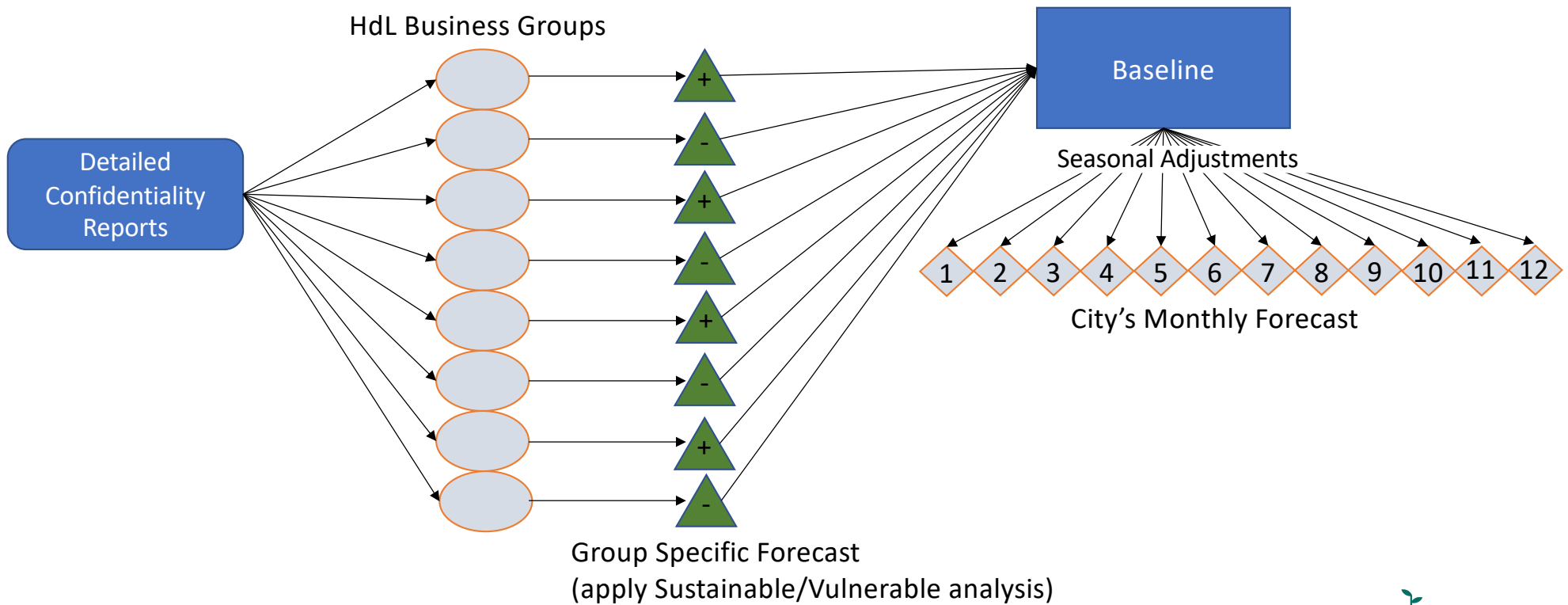
Baseline Options:

- Net Payment
- Current Period Collections
- Confidential Detail Report

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Budget with Confidential Data



Leverage Your Knowledge

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Leveraging Your Sales Tax Knowledge

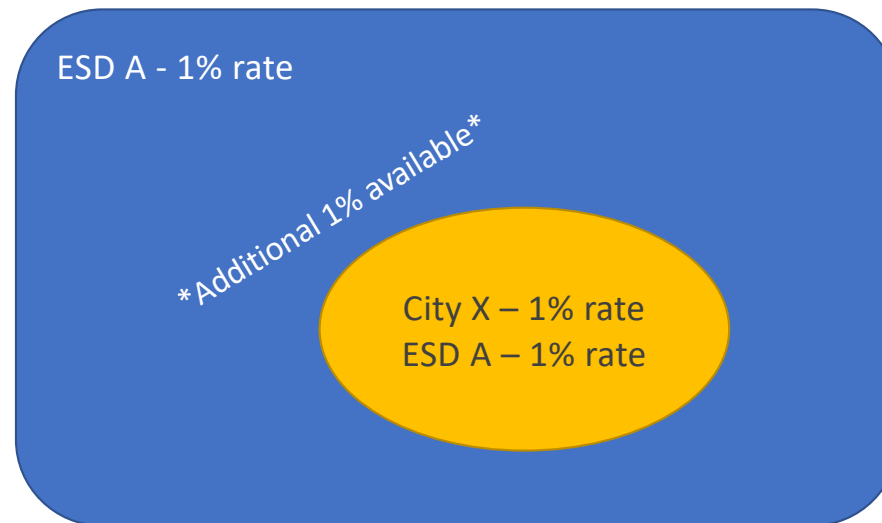
Using your newly gained sales tax expertise you can:

- Recognize Sales Tax Opportunities
 - Maximize your rate
 - Sales tax sharing
 - Building strong relationships with businesses and other government entities
- Monitor the sales tax landscape
 - Understand Annexations
 - Keep up with relevant legislative discussions



Maximize Your Rate

- Do you have the ability to capture more sales tax?
- Rate increase requires election





Sales Tax Sharing

Why Consider Sharing Sales Tax?

- Promote inter-agency cooperation
- Help other agencies understand and champion District's message
- Raise District's community profile
- Lend voice to economic development discussions

Agreements can be Comptroller-administered or self-administered



Methods of Sharing Sales Tax

Comptroller administered sharing agreements

- Sharing agreements prompted by annexation
- Creates “combined sales tax areas”
- Tax allocated monthly by TCPA just like normal

Self-administered agreements

- Sharing agreements not necessarily prompted by annexation
- Taxpayer-specific or area-specific sharing agreements
- Sharing with other special districts not authorized to levy sales tax
- Challenges with self-administered sharing
 - Data limitations
 - Managing expectations to avoid downstream issues



Understanding Annexations

Not all annexations are created equal

Full Purpose Annexations

- District loses sales tax
- Annexing city is responsible for providing all services
- If city is unprepared to provide full services city may pursue service agreements with other qualified agencies

Limited Purpose Annexations

- District retains sales tax
- District continues to provide services
- Annexing city may or may not also collect sales tax



Legislation to Monitor

Current pending legislation between group of cities and the Comptroller over specific language related to the definition of “place of business of the seller”

- The core disagreement is regarding what it means to “receive” an order and whether warehouses that fulfill online orders should qualify as places of business
- Comptroller maintains that online orders are not “received” at fulfillment warehouses and therefore should be taxed based on the point of delivery

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Thanks for listening!

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