

Behind the Scenes of Sales Tax Collections

GFOAT Spring Conference

Monday, April 17, 2023

Introductions

Mike Rodgers
City of Belton



Susan Morgan
City of Round Rock



Sales Tax Overview

Stats and Facts

- Largest source of revenue for State of Texas
 - FY 2022 - \$42.97B, up 19% over FY 2021
 - Largest number of taxing jurisdictions – 1,600+
- Largest or 2nd largest source for most cities
 - Cities receive \$8.2B of \$12.7B total local allocation
 - Volatile source – subject to seasons, economy, laws & regulations
 - Can estimate it and collect it, but not control it
- Sales tax primary legal reference
 - Texas Tax Code Chapter 321 – Municipal Sales & Use Tax Act
 - Texas Administrative Code - Rules 3.286 and 3.334

Stats and Facts, cont.

- Texas is considered an origin-based state
 - In practice, it depends
 - Type of seller – Marketplace, Remote
 - Use tax
 - *“Use tax is a nonrecurring tax that is complimentary to sales tax and is imposed on the storage, use, or other consumption of tangible personal property or a tax able service...”*
 - After Wayfair ruling, primarily impacts local government sourcing
- Sales tax revenues are a mix between consumer retail and Business to Business (B2B) sales
 - Depending on source – B2B is est. at 40% to 50% of collections

Reference Information

- Comptroller - <https://comptroller.texas.gov/taxes/sales/>
 - Authorized administrator of all state and local sales taxes in Texas
- Local government sales tax compliance and reporting
 - GFOAT Sponsors
 - TexasCityServices LLC
 - www.cityservices.us
- Private business service providers
 - Avalara, Tax Jar, etc.

Comptroller of Public Accounts

- Website - <https://comptroller.texas.gov/taxes/sales/>
 - Allocation Payment Distribution Schedule
 - Database by Entity
 - Marketplace sellers
 - Remote sellers
 - Laws & rules
 - STAR system
- Audits remitters
- Ensures compliance

Net Payments by Authority

Search Tips

Show 25 entries

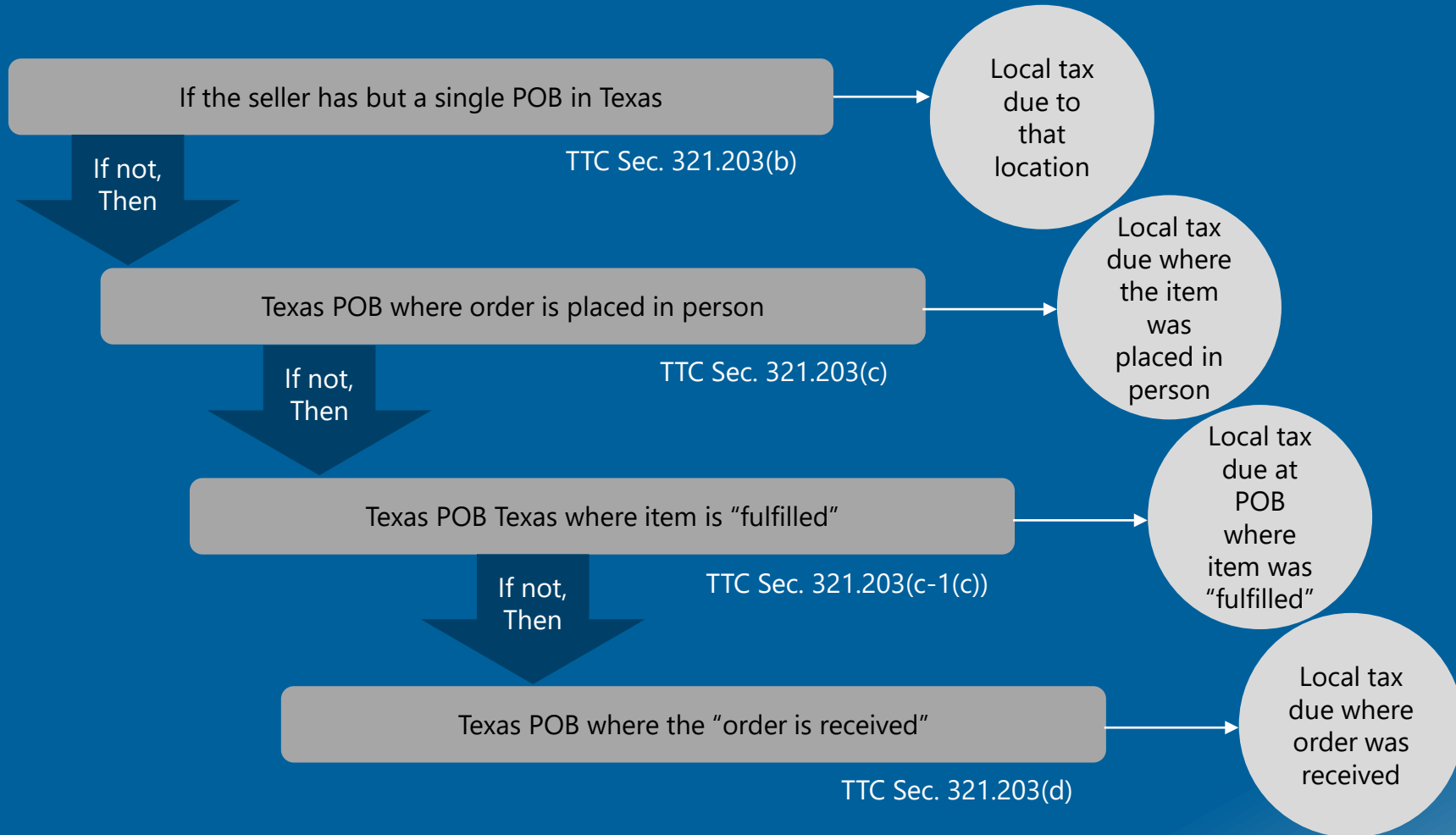
Authority ID	Authority Name	Allocation Month	Allocation Date	Total Collected	Prior Collected	Current Collected	Future Collection	Audit Collected	Unidentified Collected	Single Local Tax Collected	Service Fee
2001018	PALESTINE	2023-03-01	2023-03-07	\$592,228.07	\$2,057.55	\$575,658.67	\$7,951.05	\$-542.30	\$134.99	\$6,968.11	\$11,844.56
2001027	FRANKSTON	2023-03-01	2023-03-07	\$37,519.32	\$1,222.79	\$35,367.71	\$0.00	\$478.92	\$8.55	\$441.35	\$750.39
2001036	ELKHART	2023-03-01	2023-03-07	\$17,327.90	\$216.26	\$16,829.52	\$0.00	\$74.31	\$3.94	\$203.87	\$346.56
2002017	ANDREWS	2023-03-01	2023-03-07	\$891,658.80	\$121,106.56	\$779,346.14	\$6.66	\$-19,494.98	\$203.25	\$10,491.17	\$17,833.18
2003016	LUFKIN	2023-03-01	2023-03-07	\$1,461,910.85	\$5,347.57	\$1,400,058.29	\$10,746.62	\$28,224.40	\$333.23	\$17,200.74	\$29,238.22
2003025	DIBOLL	2023-03-01	2023-03-07	\$59,707.46	\$585.50	\$61,252.14	\$0.00	\$-2,846.19	\$13.60	\$702.41	\$1,194.15
2003034	HUNTINGTON	2023-03-01	2023-03-07	\$37,065.23	\$770.91	\$35,762.11	\$0.00	\$87.68	\$8.44	\$436.09	\$741.30
2003043	ZAVALLA	2023-03-01	2023-03-07	\$10,476.00	\$38.34	\$10,303.63	\$0.00	\$8.42	\$2.38	\$123.23	\$209.52
2003052	HUDSON	2023-03-01	2023-03-07	\$38,630.40	\$-146.60	\$38,260.79	\$32.96	\$19.94	\$8.80	\$454.51	\$772.61
2003070	BURKE	2023-03-01	2023-03-07	\$5,058.55	\$-10.53	\$5,006.81	\$0.00	\$1.65	\$1.15	\$50.46	\$101.17

Additional Resources

- ▶ Industry-Specific Sales and Use Tax
- ▶ Sales and Use Tax Data Searches
- ▼ Local Sales and Use Tax Allocation

- Allocation Payment Distribution Schedule and Message of the Month
- Allocation Payment Detail by local jurisdiction
- Allocation Payment Historical Summary by local jurisdiction
- Allocation Comparison Summary Reports
- Other Reports Available to Local Jurisdictions
- Marketplace Providers Local Sales Tax Allocation Report

Local Sales Tax Hierarchy



POB = Place of Business, defined as an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant.

"order is received" is undefined.

Sales Tax Legislative History

1992

Quill Corp. v. North Dakota - SCOTUS

"Physical presence test"

2011

Amazon v. Susan Combs, Texas Comptroller of Public Accounts

Undisclosed settlement agreement

2018

South Dakota v. Wayfair - SCOTUS

Remote sellers to collect & remit state & local sales taxes

2019

HB 1525 & HB 2153

Defined marketplace providers & sellers; established single rate for remote sellers

2020

TAC Rule 3.334

Rules for 2019 laws passed *AND* redirected sourcing for certain "shopping website" orders effective Sept 2021

2021

SB 477 & HB 2404

Further defined marketplace; Created 380 database

The Lawsuit


- July 2021
 - Cities of Carrollton, Coppell, DeSoto, Farmers Branch, Humble and Round Rock filed suit against Comptroller on TAC Rule 3.334
 - TAC Rule 3.334, Section b(5) is subject of lawsuit
- August 2021
 - District court grants injunction
 - 10/1/21 effective date on b(5) deferred pending lawsuit results
- July 2022
 - District court rules APA not followed; rule not valid
 - No fiscal impact analysis done
- Sept/Oct 2022
 - New draft rule published; public hearing held & comments taken
- January 2023
 - Revised rule published; Section b(5) completely rewritten
 - Now states no fiscal impact analysis can be done
- Nov 2023
 - Case set for trial in Travis County District Court

Section b(5)

- Before:
 - *“Orders not received by sales personnel, including orders received by a shopping website or shopping software application. Effective October 1, 2021, these orders are received at locations that are not places of business of the seller.”*
- After:
 - *“A facility without sales personnel is usually not a "place of business of the seller." A vending machine is not "an established outlet, office, or location," and does not constitute a "place of business of the seller." Instead, a vending machine sale is treated as a sale by an itinerant vendor. See subsections (a)(10) and (c)(6) of this section. However, a walk-in retail outlet with a stock of goods available for immediate purchase through a cashier-less point of sale terminal at the outlet would be "an established outlet, office, or location" so as to constitute a "place of business of the seller" even though sales personnel are not required for every sale. A computer that operates an automated shopping cart software program is not an established outlet, office, or location," and does not constitute a "place of business of the seller." A computer that operates an automated telephone ordering system is not "an established outlet, office, or location," and does not constitute a "place of business of the seller.”*
- So, Stay Tuned . . .

Origin vs Destination

- Does not impact State sales tax revenues
- Shifts local sales tax allocations
 - Redistributes revenues among local taxing jurisdictions
 - Changes rules in place for 60 years
- Decreases statewide local sales collections by estimated \$1.3 billion – 10%
 - Texas has large population outside corporate limits
- Shift increases business reporting requirements



FAST FACTS

2021 **Currently Origination Sourcing in Texas**

\$11+ Billion local taxes collected¹
 1,700+ taxing jurisdiction codes²
 80%+ of businesses (551,000+) collect a single rate³

Losses Incurred if Change to Destination Sourcing

\$1+ Billion local taxes lost⁴
 \$20+ Million in state funding lost¹¹
 \$420+ to \$4,000+ per average business in Texas¹²
 ↳ cumulative cost of \$185+ million to \$1+ billion to Texas businesses

Texas Has the Largest Rural Population in the United States

28%+ of Texans live outside a taxing authority⁷
 21%+ of Texas businesses are outside a taxing authority³
 35% of Texas economy is supported by oil & gas which by its

PERCENTAGE OF LOCALITY POPULATION TO TOTAL TEXAS POPULATION

COL A	COL B	COL C	COL D	COL E	COL F
LOCALITY TYPE	DEPOSITS	POPULATION	TEXAS POPULATION	PERCENT OF TEXAS POPULATION	PERCENT OF TEXANS OUTSIDE TAXING LOCALITY
SOURCE: TOTAL 2022 BY LOCALITY					
CITY	\$ 8,127,295,071	20,963,562	28,862,581	72.63%	27.37%
COUNTY	\$ 755,101,545	7,213,370	28,862,581	24.99%	75.01%
MTA	\$ 2,701,744,554	16,950,198	28,862,581	58.73%	41.27%
SPD	\$ 1,132,836,214	UNKNOWN	28,862,581	UNKNOWN	UNKNOWN

AMOUNT OF LOCAL TAXES LIKELY SHIPPED OUTSIDE A TAXING JURISDICTION
BUSINESS TO INDIVIDUAL SALES TAXES

COL A	COL B	COL C	COL D	COL E	COL F	COL G
LOCALITY TYPE	DEPOSITS	LIKELY PERCENT OF B2I SALES IN TEXAS	LIKELY LOCAL SALES TAXES PAID BY B2I	LIKELY PERCENT OF E. COMMERCE SALES	PERCENT OF TEXANS OUTSIDE LOCALITY	LIKELY LOSSES
SOURCE: TAB C-TOTAL 2022 BY LOCALITY						NOTE 1
CITY	\$ 8,127,295,071	58.19%	4,729,273,002	14.60%	27.37%	\$ 188,959,671
COUNTY	\$ 755,101,545	58.19%	439,393,589	14.00%	75.01%	\$ 48,118,655
MTA	\$ 2,701,744,554	58.19%	1,573,145,156	14.00%	41.27%	\$ 94,734,678
SPD	\$ 1,132,836,214	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN
TOTALS						\$ 331,813,004

NOTE 1:
Consumers pay the most sales tax in Texas
Projected sales tax contributions by industry type for fiscal year 2025, in billions:

PAYEE	SALES TAXES PAID
BUSINESS TO CONSUMERS (B2I)	\$ 28.16
CORPORATIONS (B2B)	\$ 14.37
PARTNERSHIPS (B2B)	\$ 3.81
SOLE PROPRIETORS (B2B)	\$ 2.05
TOTAL	\$ 48.39
B2I AS PERCENTAGE OF TOTAL	58.19%
B2B AS PERCENTAGE OF TOTAL	41.81%

Your City's Sales Tax Data

Sources for Sales Tax Information

- Monthly sales tax allocation
- Press releases from public companies
- Federal Reserve Beige Book and other research from the Dallas Fed
- Texas Comptroller's confidential sales tax report

Monthly Sales Tax Allocation

City of Belton
Authority Code: 2014040

Select a month ▼

Allocation Period: Jan 2022

Total Period Collections::	577,480.48
Prior Period Collections:	28,874.37
Current Period Collections:	650,610.31
Future Period Collections:	6,743.38
Audit Collections:	-116,225.37
Unidentified:	446.08
Single Local Rate Collections:	7,031.71
Service Fee:	11,549.61
Current Retained:	11,318.62
Prior Retained:	10,978.54
Net Payment	565,590.79

New report

Forecasting Annual Revenue

City of Belton, Texas
Projection of Sales Tax Revenue
For the Fiscal Year Ending September 30, 2022

Projection of Sales Tax Revenue

Month	2022	Estimate	Avg Pct.	2021	2021
October	553,944.76	7,714,149	7.2%	473,013.72	6.5%
November	681,816.16	8,665,333	7.1%	503,294.79	6.9%
December	829,628.46	8,530,874	9.9%	705,234.43	9.6%
January	622,801.53	8,531,044	7.3%	493,613.69	6.7%
February	542,430.23	8,420,823	6.9%	414,384.16	5.7%
March	831,794.49	8,452,855	9.7%	736,135.51	10.1%
April	698,533.44	8,536,066	7.7%	586,505.07	8.0%
May	738,454.55	8,649,053	7.8%	581,672.30	7.9%
June	866,605.24	8,629,326	10.2%	745,425.52	10.2%
July	717,646.09	8,688,397	7.8%	614,450.47	8.4%
August	-	7,855,270	8.6%	669,121.79	9.1%
September	-	7,083,655	9.8%	797,214.12	10.9%
Total	7,083,654.95			7,320,065.57	100.0%
	Budget	7,336,160		19.85%	
	Estimate	8,688,397			
		-			
	Nov audit adjust	(116,225)			
		-			
	Adjusted Estimate	8,572,172			
	Estimate of Surplus/(Deficit)	1,236,012			

Confidential Sales Tax Report

- All cities are entitled to receive a confidential sales tax report per Texas Tax Code Section 321.3022
- The report lists the sales tax remitted for each entity doing business in the municipality
 - Only entities paying more than \$5,000 to the State are listed
- Mayor or chief administrative officer must request annually
- <https://comptroller.texas.gov/about/policies/open-records/>

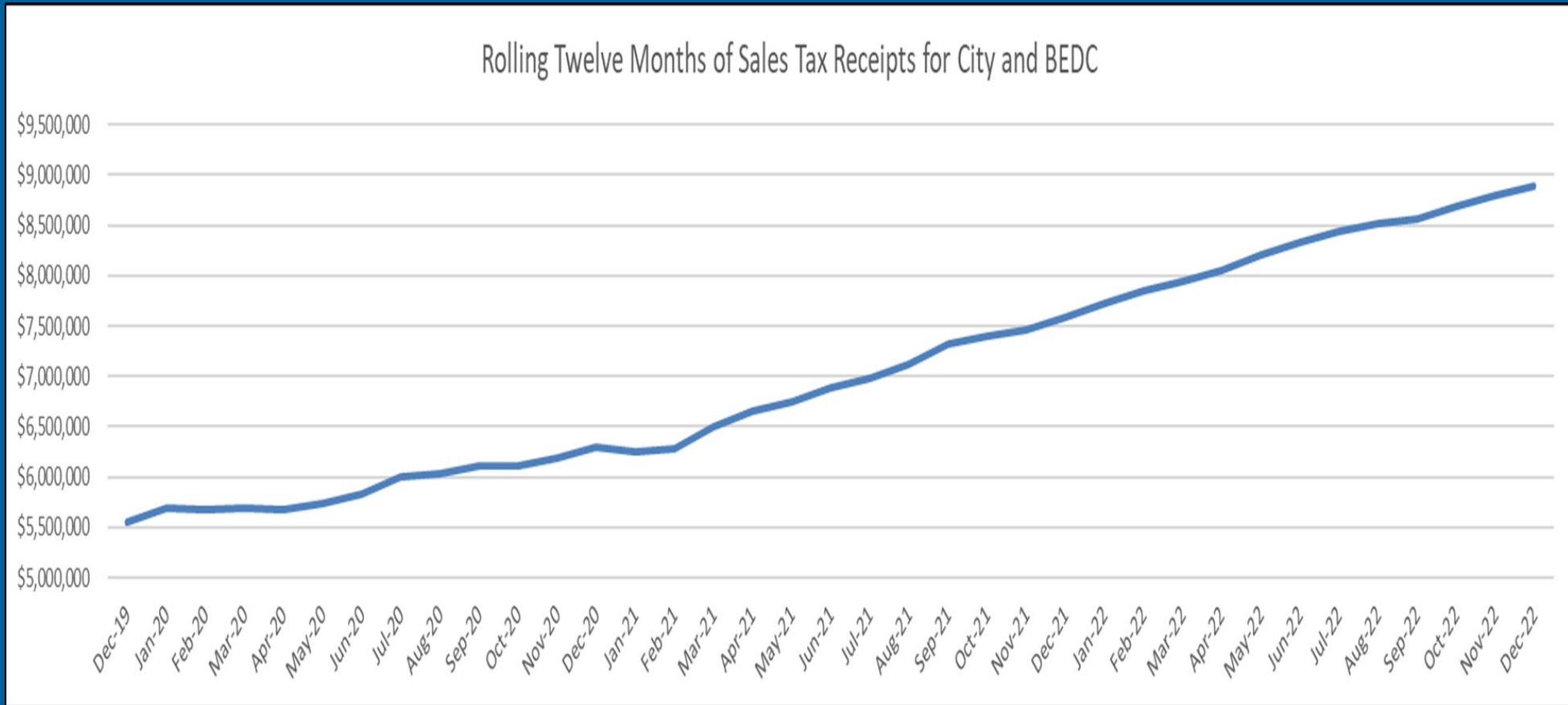
Confidential Sales Tax Report

1TP NO	NAME	ADDRESS	CITY	STATE	ZIP CODE	NAICS NO	OUTLET NO	OUTLET NAME	OUTLET ADDRESS	ALLOC MONTH	TOTAL PAID	OBLIG TYPE	PRD BEGIN	PRD END	TAX PAID
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870						R	202012	202012	0.42
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870				202102	0.42				
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870						R	202101	202101	0.33
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870				202103	0.33				
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870						R	202104	202104	0.62
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870				202106	0.62				
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870						R	202107	202107	0.29
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870				202109	0.29				
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870						R	202108	202108	0.77
1.01E+10	TAXPAYER	TAXPAYER	LEWISTON	ME	4241	541870				202110	0.77				

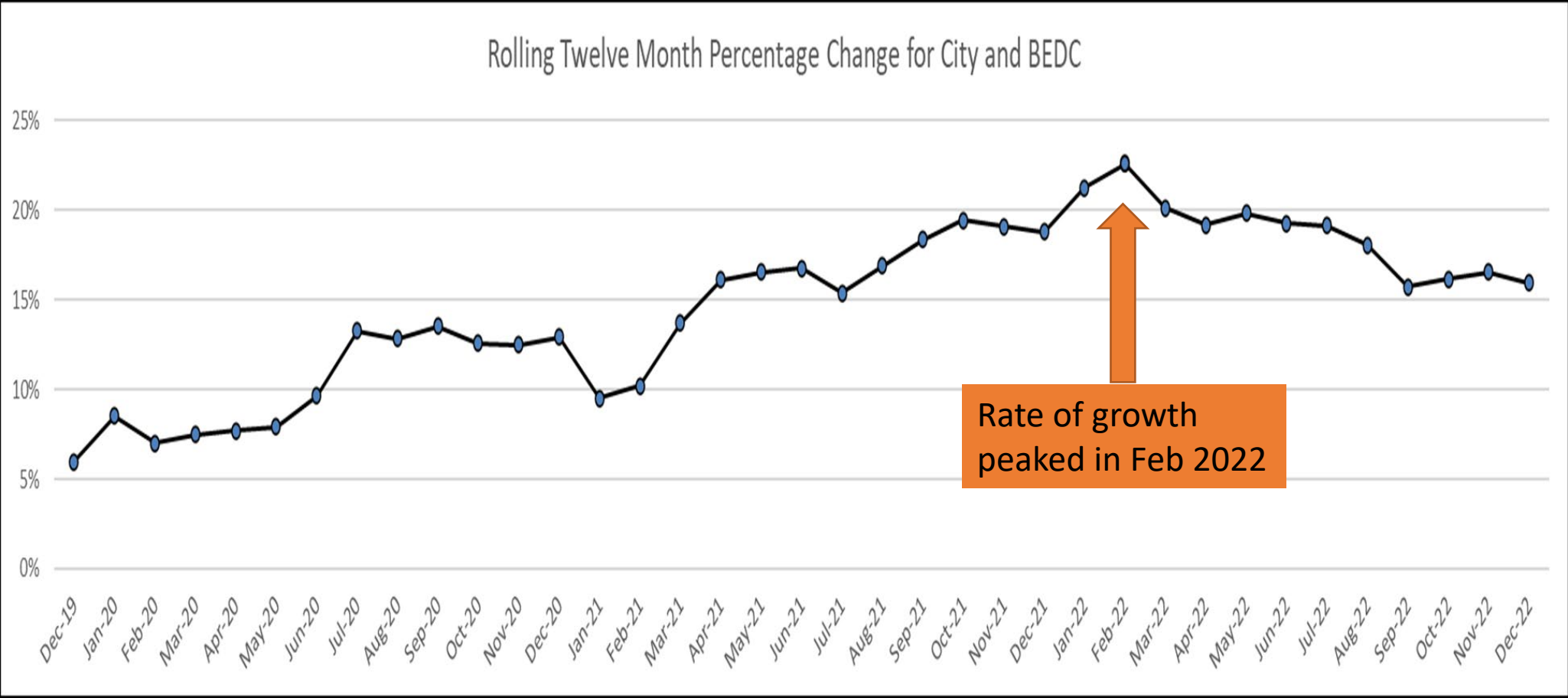
Month-to-Month Comparison

2019 to Jan 2020	2019 to Feb 2020	2019 to Mar 2020	2019 to Apr 2020	2019 to May 2020	2019 to Jun 2020	2019 to Jul 2020	2019 to Aug 2020	2019 to Sep 2020
1.93%	6.86%	8.71%	9.47%	-17.91%	-18.10%	-8.23%	-2.61%	0.89%
26.56%	8.62%	15.73%	60.02%	-12.55%	-15.48%	-15.51%	-7.06%	-13.91%
5.26%	9.91%	8.51%	7.84%	-7.29%	3.58%	18.01%	28.38%	36.36%
-20.38%	-16.73%	-13.20%	-13.30%	-51.87%	-14.54%	30.40%	65.42%	62.25%
-5.84%	-1.99%	-1.17%	0.69%	-17.05%	-28.60%	-10.95%	8.27%	11.03%
4.04%	0.69%	6.48%	2.80%	-26.17%	-43.05%	-26.17%	-0.14%	-4.92%
36.95%	20.46%	-3.21%	0.10%	-91.54%	85.11%	4.19%	-8.14%	-8.74%
-4.55%	-2.01%	-3.01%	-1.15%	-11.01%	-17.00%	2.78%	6.21%	0.39%
-16.70%	-8.31%	-1.22%	-100.00%	-72.52%	-100.00%	-52.69%	-34.47%	-37.95%
-6.71%	-8.40%	-8.72%	-21.50%	-14.37%	-28.72%	-15.52%	-11.28%	-15.24%
13.49%	16.51%	21.52%	14.69%	3.87%	29.34%	40.30%	33.88%	43.88%
7.40%	12.91%	9.43%	12.76%	-3.34%	15.06%	36.25%	31.75%	39.47%
-1.81%	-0.84%	-1.69%	-1.45%	-20.57%	-15.52%	-0.62%	1.74%	-0.57%
10.90%	8.62%	6.84%	10.76%	-35.01%	-50.01%	-16.99%	-1.53%	-0.94%
15.18%	19.62%	6.05%	15.75%	-28.50%	-17.49%	15.80%	33.57%	27.35%
-9.50%	27.46%	-3.28%	2.77%	-0.83%	9.77%	-7.75%	-7.19%	9.33%
9.03%	13.91%	19.57%	20.60%	-6.28%	8.16%	16.95%	20.63%	26.11%
15.58%	19.02%	74.52%	94.45%	13.53%	-107.68%	-95.66%	-75.72%	-65.72%
11.95%	8.45%	5.85%	-68.34%	-100.00%	-100.00%	-74.41%	4.44%	-54.69%

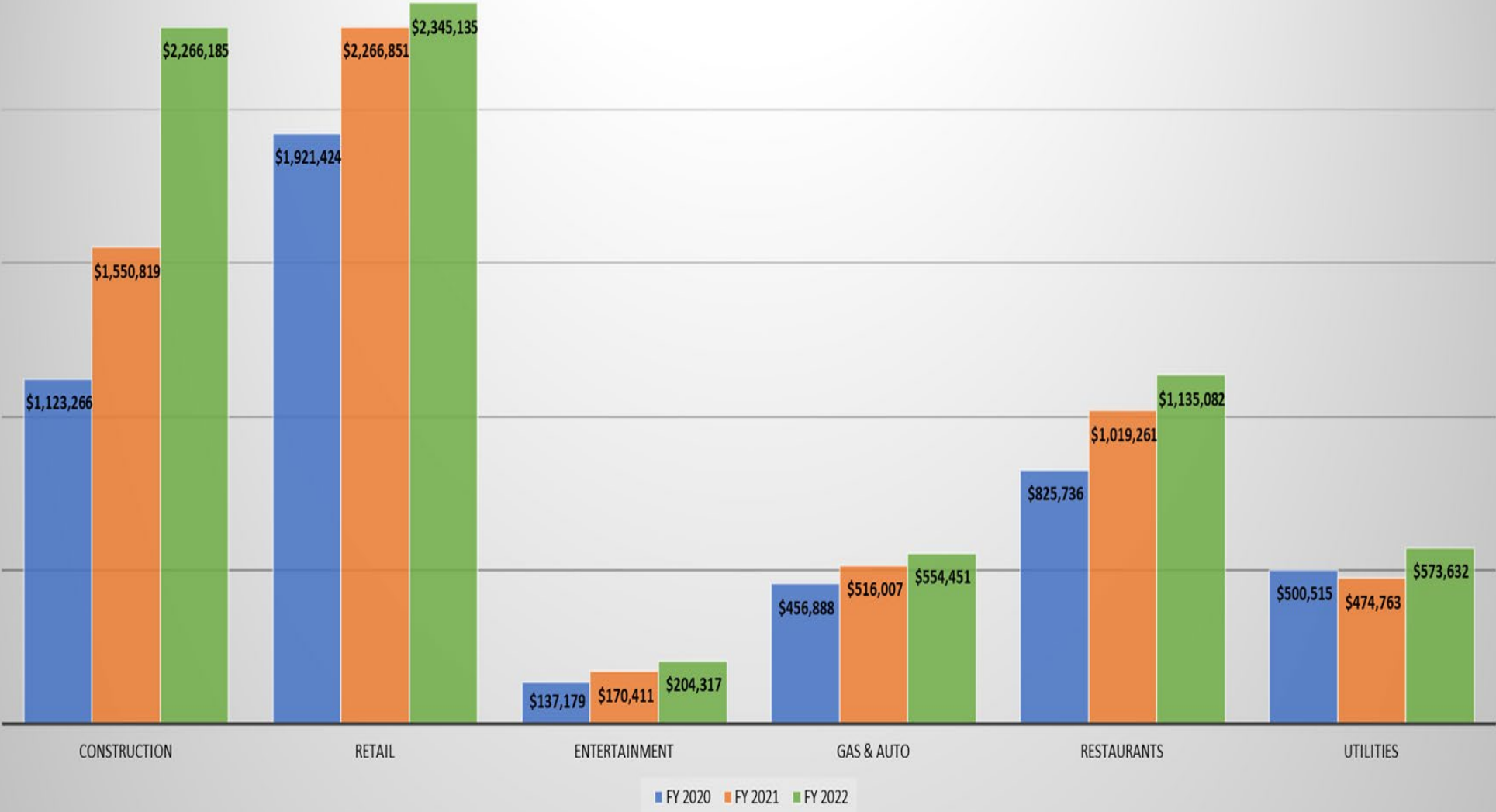
Rolling 12-Months of Revenue



Rolling 12-Month Percentage Change



Rolling Twelve Months of Sales Tax Revenue by Fiscal Year



Know Your Revenue Composition

Tips for Analyzing Data

- Adjust monthly figures for prior and future period payments
- Use rolling twelve-month data to smooth monthly swings
- Infrequent transactions like furnishing a building or buying an airplane can skew results
- Research any significant audit adjustment
- Refer to confidential details for unusual amounts
- Focus on largest remitters

CORR Example – Confidential Report

- Large increase in one remitter – July 2022
- No audit adjustments or prepayments shown on summary

CITY	STATE	ZIP CO	NAICS	OUTLET	OUTLET	ALLOC MONTH	TOTAL PAID	OBLIG TYPE	PRD BEGIN	PRD END	TAX PAID	TAX
ROUND RCTX		78682	541512					R	202206	202206	102450.9	26
ROUND RCTX		78682	541512			202208	102450.9					
ROUND RCTX		78682	541512					R	202102	202102	584439.19	26
ROUND RCTX		78682	541512					R	202104	202104	559824.74	26
ROUND RCTX		78682	541512					R	202105	202105	344505.89	26
ROUND RCTX		78682	541512					R	202106	202106	132052.95	26
ROUND RCTX		78682	541512					R	202207	202207	878377.08	26
ROUND RCTX		78682	541512			202209	2499199.85					
ROUND RCTX		78682	541512	78682	334112							

Sales Tax Bills Filed in the 88th Session of the Texas Legislature

Bills Affecting Section 321 Municipal Sales and Use Tax Act

- SB 680 and HB 2492 make the confidential sales tax report subject to open records requests
- SB 333, HB 432, and HB 1465 source certain sales to warehouses
- SB 1053 clarifies definition of marketplace seller
- HB 5141 defines “place of business” as a location operated by the retailer or retailer’s agent, regardless of the method by which orders are transmitted or received
- HB 5089 sources all sales based upon delivery not origination

Bills Affecting Section 321 Municipal Sales and Use Tax Act, cont.

- HB 43, HB 268, and HB 577 repeal sales taxes and replace with a value added tax
- SB 2018 and HB 4939 allow the Comptroller to withhold a portion of the sales tax allocation if a city does not enforce a camping ban
- HB 880 allows the Comptroller to withhold sales taxes from the City of Austin for the cost of public safety at the Capital Complex

Many Bills Affect Chapter 151 Limited Sales, Excise and Use Tax

- Exemptions would be added for
 - Maternity clothing, diapers (children and adult), and feminine hygiene products
 - College textbooks, school supplies purchased by teachers, and computers purchased during the sales tax holiday
 - Portable generators and trade tools
 - Equipment used in data centers and virtual currency mines
- SB 1000 filed by Senator West would reduce the state sales tax rate from 6.25% to 5.75%

Questions

Thank you!

Behind the Scenes of Sales Tax Collections

GFOAT Spring Conference

Monday, April 17, 2023