

**To the Mayor and Members of the City Council****May 18, 2021**

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**SUBJECT: SALES TAX OVERPAYMENT REFUND**

On May 5, 2021, the City of Fort Worth ("City") and the Fort Worth Crime Control District ("CCPD") each received a letter from the Texas State Comptroller requesting a refund for an overpayment of sales taxes by a single taxpayer. This is the second time in ten years that we have received such a payback request.

The Comptroller states that the City was overpaid \$12,413,695.66 and the CCPD overpaid \$6,206,847.83. Both amounts must be repaid to the State. The State Comptroller provided three options for repayment:

1. Full reimbursement by one-time check to include a 2% fee discount;
2. Apply all monthly collections to the overpaid amount until the amount has been repaid; or
3. Enter into a 72-month (six-year) payback agreement.

We have spoken informally with the Comptroller's Office and they have expressed interest in the possibility of extending the repayment period to 144 months (twelve years) for both entities. In 2011, the City entered into a Repayment Agreement with the Comptroller for overpaid sales taxes in the amount of \$9,306,918.07. That agreement allowed for a twenty-year repayment period.

**Relevant Law**

Texas Tax Code section 322.2022(f) states that sales tax information relating to a single taxpayer is confidential and is not open to public inspection. Texas Tax Code section 321.510, however, states that a municipality may request a review of all available sales tax returns and reports filed by not more than five individual taxpayers that relate to a refund.

**Issue**

The Comptroller remits sales taxes to the City and CCPD but does not inform either entity that a refund has been requested by a taxpayer. The City and CCPD therefore allocate the sales tax revenues in their budgets and then must account for a refund after those funds are expended.

**Potential Solutions**

We may wish to pursue a legislative remedy in the 2023 legislative session. There were pending bills to do so this year, supported by other cities, but those bills died in committee. Nevertheless, the City will reach out to the Texas Municipal League and to other cities about this issue. Potential solutions include (a) a requirement that the Comptroller provide notice to a municipality when a refund request is made; and (b) expand the information available to municipalities under Tax Code section 321.510 to include add audit reports and audit working papers. This information would give the Planning and Data Analytics Department the necessary information to inspect the refund request and plan for future refund payments. A combination of the above two solutions would give the City requisite notification and ability to prepare future budgets. The confidentiality of sales tax records could be satisfactorily addressed by restricting the number of persons who can view these records.

If you have any questions, please call Mark McAvoy, Director of Planning and Data Analytics, at 817-392-6222.

**David Cooke**  
**City Manager**