



# Adopting a County Sales Tax

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County governments gained access to the sales tax in 1984 and in increasing numbers adopted (by vote of the people) a county sales tax to bolster sagging revenue streams for county government services. As of 2014, 76 counties employ it with Oklahoma County being the one exception. Historically, county governments relied heavily upon ad valorem tax levies, state transfer payments, and county fees set by the state constitution and statutes. In many cases, revenues from these sources have not grown as quickly as rising costs and the increasing demand for services. Lack of revenue growth may be attributed in part to the fact that counties have no authority to increase revenues. County government is, in many respects, an arm of state government. Tax rates and fees are set by the state legislature. Therefore, the only viable option whereby a county may raise a significant amount of additional money to continue current activities or to expand county government services is the adoption of a county sales tax. Oklahoma Cooperative Extension Service (OCES) rural development specialists work with county Extension professionals and county officials in collecting data for county financial trend reports and estimating the need for additional revenue. OCES also estimates county proceeds from various levels of sales tax and advises county leaders about the steps to take to put a sales tax proposal before the citizens.

## Historical Perspective

From fiscal years 1984 to 2014, the average annual county increase in net assessed valuation (total taxable property) statewide was 3.8%. Among the 77 counties, the annual rate of change varied from 0.7% to 6.5% and 75% of counties increased less than 5% per year and 25% of counties experienced increases of less than 3% per year. During the same 30 year period, inflation in the U.S. economy, as measured by the consumer price index, was 2.8% per year. It would appear as though inflation and the increasing cost of various mandates (such as jail standards) have compelled counties to find additional funds and a county sales tax is the most viable vehicle. In many counties, the historical foundation for financing county services – the ad valorem or property tax - has not kept up with rising prices.

Counties first acquired the authority to adopt up to a 2% county sales tax in 1984 (68 O.S. 1991, § 1370). With the decline in oil prices and oil production, coupled with the general economic recession of the mid- to latter 1980s, Oklahoma experienced dramatic declines in economic activity and, consequently, property values. In response, some counties began to reduce their budgets, cut staff, deplete cash surpluses, defer replacement of equipment, and seek other methods to

economize. Counties also began adopting the county sales tax. Twenty-seven counties were collecting sales tax in 1990. As of July 2005, the number had risen to sixty-nine counties and in 2014 stands at seventy-six counties with a county sales tax. Obviously, counties have identified and tapped into this funding mechanism.

## Steps to Implement

Following are the good steps to take in preparation for a county sales tax election.

### A. Define the Need

Analyze the historical trends in county revenue and expenditure streams. Examine the changing service needs of the citizens whether those services be directly voiced by citizens or are required by state and federal mandates. Can the desired and mandated services be supported by present and expected future revenues? If not, how much additional revenue is needed and what level of sales tax is needed? What is the cost-benefit ratio? In other words, at what point does the cost (sales tax collections) exceed the additional benefits (provision of valuable services).

### B. Form an Advisory Committee

This group oversees the process, helps make decisions about the amount and division of sales tax, works toward its passage, and (in some counties) monitors the expenditure of sales tax dollars after adoption of the tax. To form an advisory committee, the county officers should select a representative cross-section of citizens including many of the county's leading citizens. Representatives from all aspects of county government and all "stakeholders" such as the fair board, senior citizens, farmers, economic development commission, etc. should be included. Present the facts to them and get their feedback and advice. Be completely truthful and honest with them. Do not jeopardize your credibility. Compare and contrast their conclusions with those of the county officers. Be prepared to accept either conclusion: to proceed with a sales tax election or not to proceed. Does the advisory committee support a sales tax? If so, how much do they believe is needed? For what purposes should it be ear-marked?

### C. Ear-Mark the Collections

State law requires that collections be designated for specific purposes. The amount or portion allocated to each purpose needs to be explained on the ballot so voters can see where their money is going. Taxpayers are more likely

to support a tax increase if they know how the money will be spent and why it is needed. Political reality, therefore, suggests minimizing the amount allocated to vague uses such as “general fund.” Furthermore, in order to be successful, a county sales tax may need to serve a broad base of interests in the county, i.e., senior citizens, roads, county facilities, etc.

#### **D. Educate the Public**

With the help and guidance of the advisory committee, produce brochures, news releases, and other materials to show the need and proposed solution to the public. County officers and advisory committee members may jointly or independently hold public meetings, speak at civic clubs, be available for questions, etc. Speakers must have a clear understanding of the fiscal problem, the alternative solutions, and the proposed solution. They should be able to articulate this information to the public.

#### **E. Promote the Sales Tax**

An organized promotion campaign stemming from the citizens’ advisory committee will be helpful. It is not ethical for OCES or elected officials to actually campaign for and promote a biased interest. Their appropriate role is to present the facts and educate. However, if a citizens group is formed to collect donations, place newspaper and telephone ads, speak to civic clubs, or even go door to door, the sales tax will have a better chance of being adopted.

#### **F. Hold the Election**

Call for and hold the election in keeping with the law. Legal aspects of holding such an election are described below. The time required for steps A through F may vary from county to county but it is probably prudent to expect six months or more.

#### **G. Use Funds Responsibly**

Be accountable for the additional funds that the taxpayers have paid and entrusted to the county. Through careful record keeping, be able to show citizens, especially the citizen’s advisory committee, that the funds were used as specified and used well. Most county sales taxes are adopted for a limited time, such as five years. If a sales tax needs to be renewed, citizens will want to know if sales tax dollars were put to beneficial use in the past.

#### **H. Other Practical Ideas**

- County officials and the advisory committee must work together to present a “total package” to the voters without dissension. Dissension tends to cause voters to doubt the need for or the appropriate use of a sales tax.
- Representatives of a citizens’ advisory committee should be carefully chosen. They should represent a cross-section of the populace. They should be objective, public-minded, and trusted people of integrity. If such a committee is selected and they reach the conclusion that a county sales tax is needed, the committee becomes a primary reason for the public to vote in favor of the new tax.
- Once a sales tax is in place, citizens will observe how their money is being spent, so marketing, visibility, and accountability are important.

### **Adopting a County Sales Tax: Legal Aspects**

Although county government is limited to a maximum of 2%, the citizens of incorporated cities and towns may adopt

any sales tax rate. The municipal sales tax is in addition to the 4.5 percent levied by the State. Hence the total sales tax in any particular place in Oklahoma equals 4.5% plus the city rate (if any) plus the county rate (if any). Title 68, sections 1370 - 1374 of the Oklahoma Statutes contains the law regarding county sales tax. The principle provisions are as follows:

#### **Majority Vote**

A sales tax must be approved by a majority of voters at a special election called for by the Board of County Commissioners or by initiative petition. If by initiative petition, it must be signed by at least 5% of the registered voters of the county who were registered at the time of the last general election. If the sales tax fails to pass, the county commissioners must wait six months before calling for another sales tax election. If a county wishes to repeal a sales tax, this is accomplished at a special election called for in the same fashion described above.

#### **Designated Purpose**

Sales tax dollars must be designated for a particular purpose(s). Purposes may include but are not limited to economic development; general operations; capital improvements; county roads; or any other purpose deemed by a majority of the county commissioners to be necessary to promote safety, security, and the general well-being of the people. The county shall identify the purpose of the sales tax when it is presented to the voters. If the designated purpose of the sales tax is to retire indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until the debt is retired. Sales tax monies may only be expended for the purposes specifically designated.

#### **Duration**

The life of the tax may be limited or unlimited. The county identifies the duration when it is presented to the voters. That is, the duration is shown on the ballot. Most counties have adopted a five-year period. Citizens of many counties have voted to renew or extend the tax another five years.

#### **Bookkeeping**

The proceeds of any sales tax levied by a county shall be deposited in the general revenue and/or sales tax revolving fund(s) of the county. Whether the proceeds are deposited in the general fund or revolving fund(s), the amounts designated for each purpose shall be accounted for separately to ensure that the proceeds are expended as authorized by the voters and the end of year balance is not lost; rather it remains available for the designated purpose. Separate revolving funds may, at the county’s option, be set up for each designated purpose. For example, if designated purposes are county roads, county library, and free fair, then a revolving fund could be established for each. Revolving funds are continuous funds not subject to fiscal year limitations. In particular, any balance in a revolving fund at the end of a fiscal year is carried forward in that fund into the next fiscal year. The end of year balance is not lost; rather it remains available for the designated purpose. Finally, it is important to note that any interest earned by investment of earmarked sales tax monies must be credited to the account/fund that provided the funds being invested.

#### **Maximum Percentage**

Any county may levy up to a 2% county sales tax for the purposes and duration described above. In addition, counties whose population exceeded 300,000 in the latest decennial census (Tulsa and Oklahoma Counties) may levy specified

**Table 1. Detailed Outline of the Technical Steps for a County to Take Before and After the Election**

Before Election			
<i>Board of County Commissioners</i>	<i>District Attorney</i>	<i>Election Board</i>	<i>Oklahoma Tax Commission</i>
Adopt Resolution and sample ballot in open meeting. Include: 1) New Rate; 2) Purpose and allocation; 3) Effective date (must be on the first day of the calendar quarter following passage or later); 4) Duration of tax 68 OS §1370	Ballot must be submitted to District Attorney for approval. District Attorney must notify Board of County Commissioners in writing whether or not the proposed ballot title complies with applicable laws. 19 OS 388	Resolution and ballot title due 60 days prior to election date; For election Dates see OS 26 §3-101	Helpful Hint: Dave Francis, OTC, Audit Division can provide assistance with all paper work. 405-522-6600
Resolution and Ballot must be published at least (4) four weeks in some newspaper. The Statute is not clear on the schedule of the publication. If your paper is weekly, then it would require 4 weeks, etc. 19 OS §383			

After Election		
<p><b>Provide documents to OTC.</b> OAC 710:65-18-10: According to Rules for OTC, Sales Tax Election information must be received <b>at least 75 days prior to the effective tax rate. Information should be sent to OTC -Audit Maintenance Division, ATTN: Account Analysis, PO Box 269090, Oklahoma City OK 73126-9060.</b> <b>Information includes:</b> 1) Resolution for sales tax election, 2) Certified Election Results, 3) Minutes of meeting if Use Tax was amended.</p> <p>Approve Sales Tax Agreement and return to OTC. Should be returned prior to the effective date of tax. County use tax must be the same rate as the new sales tax rate. The Use Tax Resolution should be reviewed. If it does not “auto-adjust” then the Board must take action. (Again, this should be filed 75 days prior to effective date of tax)</p> <p>In an open meeting the Board should take action to amend Use Tax to reflect the current sales tax rate. This can be by motion or a new Resolution. It is recommended that the Use Tax Resolution use verbiage that would tie the Use Tax to the current Sales Tax rate. If use tax rate is not amended timely it will delay the collections. Resources: Extension Fact Sheet AGEC-765; 68 OS 1411</p>	<p>Certification of Election results to Board of County Commissioners. If measure fails, another election can not be held for at least 6 months.</p>	<p>OTC must notify vendors at least 60 days prior to effective date of tax. If any information is delayed the effective rate of tax would be delayed to the next quarter.</p> <p>Prior to Effective date OTC will send Bd of County Commissioners the new Sales Tax Agreements reflecting the new rate. This is the agreement outlining the actual collections by OTC of the sale tax.</p>

Sample Time line for an election date of January 14, 2014.



amounts for specified purposes for specified periods of time. These are detailed in Title 68, sections 1370.1 - 1370.7. Typically, these sections provide for up to a one percent sales tax for no more than three years. For example:

- a. Up to one percent for no more than three years for qualified aircraft maintenance or manufacturing facilities,
- b. Up to one percent for no more than three years for acquisition and development of qualified manufacturing facilities,
- c. Up to one percent for no more than three years for development of facilities for lease or conveyance to the government of the United States.

One should refer to the statutes to learn the additional restrictions and specifications applicable to each of the special cases listed for Tulsa and Oklahoma counties.

## Other General Provisions

The same items subject to state sales tax shall also be subject to county sales tax. The same items exempt from state sales tax shall also be exempt from county sales. One percent of the gross collections (decreasing to 0.5% effective July 1, 2015) are kept by the Oklahoma Tax Commission for the service of collecting and distributing the tax.

## How Counties Use Sales Tax Dollars

For many fiscal years, OCES compiles and publishes a report showing how each and every county government uses its sales tax. These reports can be found at <http://agecon.okstate.edu/ctp/index.asp?type=publications>. Look for the title, "County Sales, Use, & Lodging Tax Summary Report, FY\_\_."

## Summary

Counties in Oklahoma have increasingly turned to the county sales tax as the most viable alternative for bolstering lagging revenues for county government services. This paper gives a brief review of the revenue problem then explains the process by which many counties have adopted a county sales tax. The legal requirements are summarized. Finally, a summary table of critical steps to take, before and after the election is presented. Counties considering a sales tax for the first time and counties seeking to renew their sales tax may find this information to be useful and instructive.

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