



**Q What is a municipal development district (MDD)?**

**A** An MDD is a political subdivision created by a city to plan, acquire, establish, develop, construct, or renovate one or more development projects beneficial to the district. Tex. Loc. Gov't Code §§ 377.021 and 377.022. An MDD closely resembles a Type B economic development corporation (EDC), with some key differences (discussed below). The MDD is funded through a dedicated local sales and use tax that must be approved by the voters in an election held within the district. *Id.* § 377.101.

The concept of an MDD was first introduced in a limited capacity in 1999, when the Texas Legislature authorized the City of Aransas Pass to create an MDD. In 2001, legislation passed to provide that any city located in multiple counties could hold an election to adopt an MDD. Finally, in 2005, the Texas Legislature amended Chapter 377 of the Local Government Code to enable any city to establish an MDD. According to the Texas Comptroller at the time of this writing, 40 cities have created MDDs. (Website of Texas Comptroller of Public Accounts, *Special Purpose District Sales and Use Tax*, <https://comptroller.texas.gov/taxes/sales/spd.php>.)

**Q What are the authorized rates of the MDD sales tax levy?**

**A** The rate of an MDD sales tax may be one-eighth, one-fourth, three-eighths, or one-half of one percent of the cost of goods sold within the MDD that are subject to sales taxes. *Id.* § 377.104. The combined rate of all local sales taxes within the district, however, may not exceed two percent. *Id.* § 377.101(c).

**Q What may an MDD sales tax be spent on?**

**A** An MDD sales tax is a dedicated city sales tax, meaning its proceeds can only be spent on certain authorized projects (as distinguished from a general purpose tax which can be spent on any lawful city purpose).

An MDD sales tax is an economic development tax that can be spent on authorized "development projects," which include any of the following:

- (1) Any "project" as that word is defined by Sections 505.051 through 505.158 of the Local Government Code. *Id.* § 377.001(3)(A). In other words, the MDD tax automatically encompasses any project available to a similarly-sized Type B EDC.
- (2) A convention center facility or related improvements such as a civic center or auditorium. *Id.* § 377.001(3)(B).
- (3) Parking lots for such convention or related facilities. *Id.* § 377.001(3)(B).
- (4) Civic center hotels. *Id.* § 377.001(3)(B). This authority can be quite important; funding of civic center hotels with other funds, such as hotel occupancy taxes, can be controversial both legally and politically.

**Q Can an MDD be created to encompass the city's extraterritorial jurisdiction (ETJ)?**

**A** Yes. When a city holds the election to create a district, the district may be created in: (1) all or part of the boundaries of the city; (2) all or part of the boundaries of the city and all or part of the boundaries of the city's ETJ; or (3) all or part of the city's ETJ. *Id.* § 377.002.

While the MDD statute authorizes the boundaries of the MDD to include the city's ETJ upon the creation of the district, it should be noted that there is no express statutory authority to later modify the boundaries of the ETJ. In other



words, an MDD that is initially created to only include the city limits cannot later be expanded – by election or otherwise – to include the city’s ETJ.

**Q** If the MDD so closely resembles an EDC, why not just create a Type A or Type B EDC instead?

**A** There are several distinctions between an MDD and an EDC sales tax that might make the MDD preferable to an EDC in a particular city:

- (1) The scope of projects that can be funded with an MDD sales tax is slightly larger than that of a Type B EDC sales tax (see above).
- (2) An MDD sales tax need not be levied over the entire corporate limits of a city, as an EDC sales tax must. This can be useful for cities that straddle county boundaries and are thus “maxed out” at their two-percent local sales tax cap in some areas of the city but not in others. The statute states that the city can create the district (and thus levy the tax) in “all or part of the boundaries of the municipality.” *Id.* § 377.002(a)(1).

(3) As mentioned above, an MDD sales tax may be imposed in a city’s ETJ if the voters of the entire district approve the tax. *Id.* § 377.002(a)(2). The MDD sales tax is the only city sales tax that may be levied in the ETJ of a city.

(4) The MDD statute does not have the same level of detailed restrictions that the EDC statute does. For example, the EDC statute prevents the city from giving aid to an EDC. *Id.* § 501.007(a). The MDD statute contains no such restriction. The MDD statute only references the Type B EDC law to define the permissible projects of an MDD; it does not incorporate the other procedural and substantive aspects of the EDC statutes.

(5) The board of an MDD consists of a minimum of four persons. *Id.* § 377.051(a). A Type B corporation has a seven-member board. *Id.* § 505.051. Many Type B EDC cities, particularly smaller cities, report difficulty in locating persons willing to serve on the Type B EDC board. The smaller MDD board can help in this regard.