



Water Catchment's Tax Benefit

With the tax season approaching, thoughts turn to ways we can save some of our tax dollars. Yup, Texas rainwater harvesting comes with tax incentives. This month the CTGCD also received questions about whether HOAs can prevent owners from capturing rainwater. In a word, no; more to follow.

Although Comal County has not yet designated any specific property tax savings for installing water catchment systems, the 2001 Texas Legislature did create a sales tax exemption to encourage Texans statewide to conserve water. The exemption, which took effect September 1, 2001, applies to equipment, supplies and services used solely for certain types of water conservation. For this exemption, "solely" means the equipment, services, or supplies are used exclusively for the reason stated. For example, a water dam in a toilet tank is used only to save water; therefore, it qualifies for the exemption. A washing machine with special features to conserve water does not qualify, because it's also used to wash clothes, not solely to reduce water use. The exemption covers several types of conservation that are now exempt from sales tax if used solely for the purpose shown.

First, rainwater harvesting; it includes rain barrels; gutters used to route the water into rain barrels or rainwater collection systems; conveyance piping and filtration to potable water; tanks; screens and filters for the gutters, barrels, tanks; and even a collection surface area not used as the roof of a structure or storage area. Second, processes that reduce or eliminate water use such as timers attached to sprinkler systems, water displacement devices for toilet tanks, and faucet sensors that shut off water flow. Not exempt are items that do not meet the "sole purpose" test, such as your home's roof, water-efficient appliances, pumps for fountains or water displays, tools used for landscaping or lawn care, lawnmowers, shredders, low-flush toilets, and water hoses.

The purchaser of equipment used for the sole purpose of water conservation or reuse must present to the seller, at the time of sale, a Texas sales tax exemption certificate stating valid qualifications for the exemption. The certificate must show the purchaser's name and address; description of the item, reason the purchase is tax exempt, purchaser's signature, date, and seller's name and address. To claim this exemption, purchasers complete Tax Exemption Application Form 01-339 at the time of purchase. You can find a downloadable copy of the state tax exemption form at: <https://www.comptroller.texas.gov/forms/01-339.pdf> (use just the second page).

What about that HOA question? A change to the Texas property code, enacted during the drought of 2011, states that HOAs cannot prevent homeowners from implementing drought-tolerant strategies. H.B. 3391 in 2011 and S.B. 198 in 2013, both amended laws on what HOAs could restrict when it comes to saving water and implementing sustainable landscaping practices.

The law states that a property owners' association may not prohibit a homeowner from installing rain barrels and collection systems, implementing efficient irrigation systems, or using drought-resistant landscaping. The change, however, did not completely eliminate an HOA's ability to regulate landscapes. HOAs can still create guidelines for how rainwater collecting is allowed, and HOAs can require approval before a homeowner makes changes. This approval usually must go through the HOA's architectural or landscape committee. However, S.B. 198 also requires that HOA guidelines and processes do not "unreasonably deny" the ability of a homeowner to save water, so one might be required to fence or screen barrels or large storage tanks from neighbor or right-of-way view. CTGCD President, Larry Hull, cautions that, "HOA residents should seek their HOA's approval, follow any of the HOA's prescribed guidelines, and apply to their respective architectural committee before committing to constructing catchment systems."

Feel free to send more of your rainwater capture questions to us at the Comal Trinity Groundwater Conservation District by emailing Dr. Sunn at comaltrinitygcdsecretary@gmail.com.