

By: King of Uvalde

H.B. No. 3466

A BILL TO BE ENTITLED

AN ACT

relating to the appraisal for ad valorem tax purposes of dealer's heavy equipment inventory and the prepayment of taxes on that inventory.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 23.1241(a)(1) and (2), Tax Code, are amended to read as follows:

(1) "Dealer" means a person engaged in the business in this state of selling, leasing, or renting heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union, or other finance company. In addition, for purposes of taxation of a person's inventory of heavy equipment in a tax year, the term does not include a person whose sales from the person's heavy equipment inventory are made predominately to dealers ~~[who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with Chapter 22]~~.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale, lease, or rent in this state during a tax year ~~[12-month period]~~.

SECTION 2. Section 23.1241, Tax Code, is amended by amending subsections (b), (b-1), (c), (d), (f) and by adding subsection (g-1) to read as follows:

(b) For the purpose of the computation of property tax, the

1 market value of a dealer's heavy equipment inventory on January 1 is  
2 determined by adding the market value of that inventory as  
3 determined by the dealer on the last day of each month of the  
4 preceding tax year to produce a sum, and dividing that sum [~~the~~  
5 ~~total annual sales, less sales to dealers, fleet transactions, and~~  
6 ~~subsequent sales, for the 12-month period corresponding to the~~  
7 ~~preceding tax year, divided~~] by 12.

8 (b-1) A dealer shall determine the [~~For the purpose of the~~  
9 ~~computation of property tax on the~~] market value of [~~the dealer's~~  
10 ~~heavy equipment inventory, the sales price of~~] an item of heavy  
11 equipment for a month in which the item of heavy equipment was part  
12 of the dealer's heavy equipment inventory for only a portion of that  
13 month in the manner provided by this subsection. The dealer shall  
14 multiply the market value of the item of heavy equipment in that  
15 month by a fraction, the numerator of which is the number of days  
16 that the item of heavy equipment was part of the dealer's heavy  
17 equipment inventory in that month, and the denominator of which is  
18 the number of days in that month [~~that is sold during the preceding~~  
19 ~~tax year after being leased or rented for a portion of that same tax~~  
20 ~~year is considered to be the sum of the sales price of the item plus~~  
21 ~~the total lease and rental payments received for the item in the~~  
22 ~~preceding tax year~~].

23 (c) For the purpose of the computation of property tax on  
24 the market value of the dealer's heavy equipment inventory of an  
25 owner who was not a dealer on January 1 of the preceding tax year,  
26 the [~~chief appraiser shall estimate the~~] market value of the  
27 dealer's heavy equipment inventory is determined by adding the

market value of that inventory as determined by the dealer on the last day of each month of the preceding tax year in which the person was a dealer to produce a sum, and dividing that sum by the number of months in the preceding tax year in which the person was a dealer.

~~[In making the estimate required by this subsection, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's heavy equipment inventory in the preceding tax year.]~~

(d) Except for dealer's heavy equipment inventory, personal property held by a dealer is appraised as provided by the other sections of this code. ~~[In the case of a dealer whose sales from the dealer's heavy equipment inventory are made predominately to other dealers, the chief appraiser shall appraise the dealer's heavy equipment inventory as provided by Section 23.12.]~~

(f) The comptroller by rule shall adopt a dealer's heavy equipment inventory declaration form. Except as provided by Section 23.1242(k), not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser for the appraisal district in which the dealer's heavy equipment inventory has taxable situs as determined under Section 21.02 and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth:

(1) the name and business address of each location at which the declarant conducts business;

(2) a statement that the declarant is the owner of a

dealer's heavy equipment inventory; and

(3) the market value of the declarant's heavy equipment inventory for the current tax year as computed under Subsection (b) or (c), as applicable.

(g-1) If the chief appraiser determines that the values of the heavy equipment as reported by the dealer are inaccurate, the chief appraiser may reappraise the heavy equipment at its market value, place that value on the appraisal role, and give notices and opportunity to protest as otherwise provided in this Code.

SECTION 3. Section 23.1242(a)(2), Tax Code, is amended to read as follows:

(2) "Dealer's heavy equipment inventory," "declaration," and "dealer[,]" [~~"sales price," "subsequent sale," and "total annual sales"~~] have the meanings assigned those terms by Section 23.1241.

SECTION 4. Sections 23.1242(b), (d), (e), (f), and (g), Tax Code, are amended to read as follows:

(b) An [~~Except for an item of heavy equipment sold to a dealer, an item of heavy equipment included in a fleet transaction, an item of heavy equipment that is the subject of a subsequent sale, or an item of heavy equipment that is subject to a lease or rental,~~ an] owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's heavy equipment inventory shall assign a unit property tax to each item of [heavy equipment sold from a] dealer's heavy equipment inventory that is in the dealer's inventory on the last day of the preceding month. [~~In the case of a lease or rental, the owner shall assign a~~

~~unit property tax to each item of heavy equipment leased or rented.]~~

The unit property tax of each item of heavy equipment is determined by multiplying the market value ~~[sales price]~~ of the item ~~[or the monthly lease or rental payment received for the item, as applicable,]~~ by the unit property tax factor. If the transaction is a lease or rental, the owner shall collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or rental. The owner of the equipment shall state the amount of the unit property tax assigned as a separate line item on an invoice. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as required by this section, deposit with the collector an amount equal to the total of unit property tax assigned to all items of heavy equipment ~~[sold, leased, or rented]~~ from the dealer's heavy equipment inventory in the preceding month to which a unit property tax was assigned. The money shall be deposited by the collector to the credit of the owner's escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the dealer's heavy equipment inventory, and the owner shall fund the escrow account as provided by this subsection.

(d) The ~~[Except as provided by Section 23.1243, the]~~ owner may not withdraw funds in an escrow account created under this section.

(e) The comptroller by rule shall adopt a dealer's heavy equipment inventory tax statement form. Each month, a dealer shall complete the form ~~[regardless of whether an item of heavy equipment~~

1 ~~is sold, leased, or rented~~]. A dealer may use no other form for that  
2 purpose. The statement may include the information the comptroller  
3 considers appropriate but shall include at least the following:

4 (1) a description of each item of dealer's heavy  
5 equipment inventory, ~~[sold, leased, or rented]~~ including any unique  
6 identification or serial number affixed to the item by the  
7 manufacturer;

8 (2) the market value of ~~[sales price of or lease or~~  
9 ~~rental payment received for]~~ the item of heavy equipment~~[, as~~  
10 ~~applicable]~~;

11 (3) the unit property tax of the item of heavy  
12 equipment, if any; and

13 (4) the reason no unit property tax is assigned if no  
14 unit property tax is assigned.

15 (f) On or before the 10th day of each month, a dealer shall  
16 file with the collector the statement required under Subsection  
17 (e). The statement must include the market value of the dealer's  
18 heavy equipment inventory for ~~[covering the sale, lease, or rental~~  
19 ~~of each item of heavy equipment sold, leased, or rented by the~~  
20 ~~dealer in]~~ the preceding month. On or before the 10th day of a month  
21 following a month in which a dealer has no heavy equipment in the  
22 dealer's inventory ~~[does not sell, lease, or rent an item of heavy~~  
23 ~~equipment]~~, the dealer must file the statement with the collector  
24 and indicate that, during ~~[no sales, leases, or rentals were made~~  
25 ~~in]~~ the prior month, the dealer had no heavy equipment in the  
26 dealer's inventory. A dealer shall file a copy of the statement  
27 with the chief appraiser and retain any documentation relating to

1 the market value [~~disposition~~] of each item of heavy equipment  
2 included in the statement [~~sold and the lease or rental of each item~~  
3 ~~of heavy equipment~~]. A chief appraiser or collector may examine  
4 documents held by a dealer as provided by this subsection in the  
5 same manner, and subject to the same conditions, as provided by  
6 Section 23.1241(g).

7 (g) Except as provided by this subsection, Subsection (f)  
8 applies to any dealer, regardless of whether a dealer owes heavy  
9 equipment inventory tax for the current year. A dealer who owes no  
10 heavy equipment inventory tax for the current year because the  
11 dealer was not in business on January 1:

12 (1) shall file the statement required by this section  
13 showing the information required by this section for each month  
14 that the dealer is in business; and

15 (2) may not assign a unit property tax to an item of  
16 heavy equipment [~~sold by the dealer~~] or remit money with the  
17 statement except in compliance with the terms of a contract as  
18 provided by Subsection (k).

19 SECTION 5. Section 41.44(a), Tax Code, is amended to read as  
20 follows:

21 (a) Except as provided by Subsections (b), (b-1), (c),  
22 (c-1), and (c-2), to be entitled to a hearing and determination of a  
23 protest, the property owner initiating the protest must file a  
24 written notice of the protest with the appraisal review board  
25 having authority to hear the matter protested:

26 (1) before May 1 or not later than the 30th day after  
27 the date that notice to the property owner was delivered to the

1 property owner as provided by Section 25.19, if the property is a  
2 single-family residence that qualifies for an exemption under  
3 Section 11.13, whichever is later;

4 (2) before June 1 or not later than the 30th day after  
5 the date that notice was delivered to the property owner as provided  
6 by Section 25.19 in connection with any other property, whichever  
7 is later;

8 (3) in the case of a protest of a change in the  
9 appraisal records ordered as provided by Subchapter A of this  
10 chapter or by Chapter 25, not later than the 30th day after the date  
11 notice of the change is delivered to the property owner; or

12 (4) in the case of a determination that a change in the  
13 use of land appraised under Subchapter C, D, E, or H, Chapter 23,  
14 has occurred, not later than the 30th day after the date the notice  
15 of the determination is delivered to the property owner [~~+~~ ~~or~~

16 ~~(5) in the case of a determination of eligibility for~~  
17 ~~a refund under Section 23.1243, not later than the 30th day after~~  
18 ~~the date the notice of the determination is delivered to the~~  
19 ~~property owner].~~

20 SECTION 6. Section 42.01(a), Tax Code, is amended to read as  
21 follows:

22 (a) A property owner is entitled to appeal:

23 (1) an order of the appraisal review board  
24 determining:

25 (A) a protest by the property owner as provided  
26 by Subchapter C of Chapter 41;

27 (B) a [~~determination of an appraisal review board~~



1 ~~on a~~] motion filed under Section 25.25; or

2 (C) [~~a determination of an appraisal review~~  
3 ~~board~~] that the property owner has forfeited the right to a final  
4 determination of a motion filed under Section 25.25 or of a protest  
5 under Section 41.411 for failing to comply with the prepayment  
6 requirements of Section 25.26 or 41.4115, as applicable; or

7 [~~(D) a determination of an appraisal review board~~  
8 ~~of eligibility for a refund requested under Section 23.1243; or~~]

9 (2) an order of the comptroller issued as provided by  
10 Subchapter B, Chapter 24, apportioning among the counties the  
11 appraised value of railroad rolling stock owned by the property  
12 owner.

13 SECTION 7. The following provisions of the Tax Code are  
14 repealed:

15 (1) Sections 23.1241(a)(3), (5), (7), (8), and (9);

16 (2) Section 23.1243; and

17 (3) Section 41.47(c-1).

18 SECTION 8. This Act applies only to ad valorem taxes imposed  
19 for a tax year beginning on or after the effective date of this Act.

20 SECTION 9. This Act takes effect January 1, 2018.