

BILL ANALYSIS

H.B. 2392

By: Hill

Local Government Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The purpose of this bill is to clarify that a motor vehicle located at a wholesale motor vehicle auction facility does not obtain taxable situs until the vehicle is located at the auction facility for at least 60 days. The bill also clarifies that a person who holds a wholesale motor vehicle auction general distinguishing number is not required to render: (1) motor vehicles that have not acquired taxable situs at the auction; (2) motor vehicles owned by dealers subject to the vehicle inventory tax; and (3) motor vehicles held by lienholders and offered for sale in foreclosure of a security interest.

Wholesale motor vehicle auctions are facilities licensed under Section 503.022 of the Transportation Code. With the limited exception of government vehicle auctions, these auctions are open only to licensed retail and wholesale automobile dealers. The auction houses take the vehicles on consignment from creditors, dealers, fleet owners, and manufacturers. The auctions do not take title to the vehicles, and title does not transfer until the vehicles are ultimately sold.

Under current law, the auction houses are required to file rendition statements under Section 22.04 of the Texas Tax Code ("Code"), which provides,

When required by the chief appraiser, a person shall file a report listing the name and address of each owner of property that is in his possession or under his management on January 1 by bailment, lease, consignment, or other arrangement.

Tex. Tax Code § 22.04 (a). Pursuant to this statute, the auctions have generally provided the county appraisal districts with the name of the owner and the vehicle identification number for each automobile consigned and located on the auction's premises on January 1st.

Based on these renditions, appraisal districts have included vehicles located at auction on January 1 on the appraisal roll and value notices have been sent to the consignors identified by the auctions. The consignors then have the burden of coming forward through the protest and appeal process in order to establish whether the vehicles were subject to taxation in Texas or in the local jurisdiction.

While there are several valid grounds for disputing property taxation on the vehicles at auction, many consignors have been unwilling to expend the time and money necessary to raise these grounds through the standard administrative remedies. Rather than going through the protest and appeal process, they have the option of simply sending their cars to competing auctions in surrounding counties and consignor states that do not assess their vehicles for property taxes.

Starting in the fourth quarter of every year, certain out-of-state consignors "turn off the tap" and stop sending cars to auctions in Texas. If cars are still located at a Texas auction in December, it is common for certain consignors to take the additional step of removing their cars from Texas and transporting them to a different auction in another state. This shift away from Texas in the fourth quarter of every year has severely impacted the auction businesses and has cost this state jobs and tax revenue.

HB 2392 would remedy the above-referenced problem by clarifying that vehicles held at licensed wholesale auction facilities for less than 60 days do not obtain taxable situs and the auction houses are not required to render such vehicles pursuant to Section 22.04 of the Tax

Code. The bill further clarifies that automobiles that are already subject to the vehicle inventory tax, or that are held through repossession, are not required to be rendered by the auctions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 21.01 of the Tax Code by adding a new Subsection (d) as follows:

(d) Provides that motor vehicles located at wholesale auction for less than 60 days have not acquired taxable situs at the location of the auction.

SECTION 2. Amends Section 22.04 of the Tax Code by adding a new Subsection (d) as follows:

(d) Provides that a person who holds a wholesale motor vehicle auction general distinguishing number is not required to render for taxation: (1) motor vehicles that have not acquired taxable situs at the auction; (2) motor vehicles owned by dealers subject to the vehicle inventory tax; and (3) motor vehicles held by lienholders and offered for sale in foreclosure of a security interest.

SECTION 3. Section 3 of this Act only applies to ad valorem taxes imposed on or after January 1, 2006.

EFFECTIVE DATE. January 1, 2006.

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