

1-1 By: Oliveira (Senate Sponsor - Patrick) H.B. No. 2071
1-2 (In the Senate - Received from the House April 27, 2009;
1-3 April 27, 2009, read first time and referred to Committee on
1-4 Finance; May 8, 2009, reported favorably by the following vote:
1-5 Yeas 12, Nays 0; May 8, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the reporting of certain inventories for ad valorem tax
1-9 purposes; providing penalties.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 23.121(k), Tax Code, is amended to read
1-12 as follows:

1-13 (k) In addition to other penalties provided by law, a dealer
1-14 who fails to file or fails to timely file a declaration required by
1-15 this section shall forfeit a penalty. A tax lien attaches to the
1-16 dealer's business personal property to secure payment of the
1-17 penalty. The appropriate district attorney, criminal district
1-18 attorney, county attorney, chief appraiser, or person designated by
1-19 the chief appraiser shall collect the penalty established by this
1-20 section in the name of the chief appraiser. Venue of an action
1-21 brought under this subsection is in the county in which the
1-22 violation occurred or in the county in which the owner maintains the
1-23 owner's ~~his~~ principal place of business or residence. A penalty
1-24 forfeited under this subsection is \$1,000 for each month or part of
1-25 a month in which a declaration is not filed or timely filed after it
1-26 is due.

1-27 SECTION 2. Sections 23.122(b), (e), (f), and (n), Tax Code,
1-28 are amended to read as follows:

1-29 (b) Except for a vehicle sold to a dealer, a vehicle
1-30 included in a fleet transaction, or a vehicle that is the subject of
1-31 a subsequent sale, an owner or a person who has agreed by contract
1-32 to pay the owner's current year property taxes levied against the
1-33 owner's motor vehicle inventory shall assign a unit property tax to
1-34 each motor vehicle sold from a dealer's motor vehicle inventory.
1-35 The unit property tax of each motor vehicle is determined by
1-36 multiplying the sales price of the motor vehicle by the unit
1-37 property tax factor. On or before the 10th day of each month the
1-38 owner shall, together with the statement filed by the owner as
1-39 required ~~provided~~ by this section, deposit with the collector a
1-40 sum equal to the total of unit property tax assigned to all motor
1-41 vehicles sold from the dealer's motor vehicle inventory in the
1-42 prior month to which a unit property tax was assigned. The money
1-43 shall be deposited by the collector in or otherwise credited by the
1-44 collector to the owner's escrow account for prepayment of property
1-45 taxes as provided by this section. An escrow account required by
1-46 this section is used to pay property taxes levied against the
1-47 dealer's motor vehicle inventory, and the owner shall fund the
1-48 escrow account as provided by this subsection.

1-49 (e) The comptroller shall promulgate a form entitled a
1-50 Dealer's Motor Vehicle Inventory Tax Statement. Each month, a [A]
1-51 dealer shall complete the form regardless of whether a [with
1-52 ~~respect to each]~~ motor vehicle is sold. A dealer may use no other
1-53 form for that purpose. The statement may include the information
1-54 the comptroller deems appropriate but shall include at least the
1-55 following:

- 1-56 (1) a description of each ~~the~~ motor vehicle sold;
1-57 (2) the sales price of the motor vehicle;
1-58 (3) the unit property tax of the motor vehicle if any;

1-59 and

- 1-60 (4) the reason no unit property tax is assigned if no
1-61 unit property tax is assigned.

1-62 (f) On or before the 10th day of each month a dealer shall
1-63 file with the collector the statement covering the sale of each
1-64 motor vehicle sold by the dealer in the prior month. On or before

2-1 the 10th day of a month following a month in which a dealer does not
 2-2 sell a motor vehicle, the dealer must file the statement with the
 2-3 collector and indicate that no sales were made in the prior month.
 2-4 A dealer shall file a copy of the statement with the chief appraiser
 2-5 and retain documentation relating to the disposition of each motor
 2-6 vehicle sold. A chief appraiser or collector may examine documents
 2-7 held by a dealer as required by this subsection in the same manner,
 2-8 and subject to the same provisions, as are set forth in Section
 2-9 23.121(g) [~~of this code~~].

2-10 (n) In addition to other penalties provided by law, a dealer
 2-11 who fails to file or fails to timely file a statement as required by
 2-12 this section shall forfeit a penalty. A tax lien attaches to the
 2-13 dealer's business personal property to secure payment of the
 2-14 penalty. The appropriate district attorney, criminal district
 2-15 attorney, county attorney, collector, or person designated by the
 2-16 collector shall collect the penalty established by this section in
 2-17 the name of the collector. Venue of an action brought under this
 2-18 subsection is in the county in which the violation occurred or in
 2-19 the county in which the owner maintains the owner's [~~his~~] principal
 2-20 place of business or residence. A penalty forfeited under this
 2-21 subsection is \$500 for each month or part of a month in which a
 2-22 statement is not filed or timely filed after it is due.

2-23 SECTION 3. Section 23.124(k), Tax Code, is amended to read
 2-24 as follows:

2-25 (k) In addition to other penalties provided by law, a dealer
 2-26 who fails to file or fails to timely file a declaration required by
 2-27 this section shall forfeit a penalty. A tax lien attaches to the
 2-28 dealer's business personal property to secure payment of the
 2-29 penalty. The appropriate district attorney, criminal district
 2-30 attorney, or county attorney shall collect the penalty established
 2-31 by this section in the name of the chief appraiser or collector.
 2-32 Venue of an action brought under this subsection is in the county in
 2-33 which the violation occurred or in the county in which the owner
 2-34 maintains the owner's [~~his~~] principal place of business or
 2-35 residence. A penalty forfeited under this subsection is \$1,000 for
 2-36 each month or part of a month in which a declaration is not filed or
 2-37 timely filed after it is due.

2-38 SECTION 4. Section 23.1241(j), Tax Code, is amended to read
 2-39 as follows:

2-40 (j) In addition to other penalties provided by law, a dealer
 2-41 who fails to file or fails to timely file a declaration required by
 2-42 Subsection (f) shall forfeit a penalty. A tax lien attaches to the
 2-43 dealer's business personal property to secure payment of the
 2-44 penalty. The appropriate district attorney, criminal district
 2-45 attorney, or county attorney shall collect the penalty established
 2-46 by this section in the name of the chief appraiser or collector.
 2-47 Venue of an action brought under this subsection is in the county in
 2-48 which the violation occurred or in the county in which the owner
 2-49 maintains the owner's principal place of business or residence. A
 2-50 penalty forfeited under this subsection is \$1,000 for each month or
 2-51 part of a month in which a declaration is not filed or timely filed
 2-52 after it is due.

2-53 SECTION 5. Sections 23.1242(b), (e), (f), and (m), Tax
 2-54 Code, are amended to read as follows:

2-55 (b) Except for an item of heavy equipment sold to a dealer,
 2-56 an item of heavy equipment included in a fleet transaction, or an
 2-57 item of heavy equipment that is the subject of a subsequent sale, an
 2-58 owner or a person who has agreed by contract to pay the owner's
 2-59 current year property taxes levied against the owner's heavy
 2-60 equipment inventory shall assign a unit property tax to each item of
 2-61 heavy equipment sold from a dealer's heavy equipment inventory.
 2-62 The unit property tax of each item of heavy equipment is determined
 2-63 by multiplying the sales price of the item by the unit property tax
 2-64 factor. On or before the 10th day of each month the owner shall,
 2-65 together with the statement filed by the owner as required
 2-66 [~~provided~~] by this section, deposit with the collector an amount
 2-67 equal to the total of unit property tax assigned to all items of
 2-68 heavy equipment sold from the dealer's heavy equipment inventory in
 2-69 the preceding month to which a unit property tax was assigned. The

3-1 money shall be deposited by the collector to the credit of the
 3-2 owner's escrow account for prepayment of property taxes as provided
 3-3 by this section. An escrow account required by this section is used
 3-4 to pay property taxes levied against the dealer's heavy equipment
 3-5 inventory, and the owner shall fund the escrow account as provided
 3-6 by this subsection.

3-7 (e) The comptroller by rule shall adopt a dealer's heavy
 3-8 equipment inventory tax statement form. Each month, a [A] dealer
 3-9 shall complete the form regardless of whether an [with respect to
 3-10 each] item of heavy equipment is sold. A dealer may use no other
 3-11 form for that purpose. The statement may include the information
 3-12 the comptroller considers appropriate but shall include at least
 3-13 the following:

3-14 (1) a description of each [~~the~~] item of heavy
 3-15 equipment sold, including any unique identification or serial
 3-16 number affixed to the item by the manufacturer;

3-17 (2) the sales price of the item of heavy equipment;

3-18 (3) the unit property tax of the item of heavy
 3-19 equipment, if any; and

3-20 (4) the reason no unit property tax is assigned if no
 3-21 unit property tax is assigned.

3-22 (f) On or before the 10th day of each month, a dealer shall
 3-23 file with the collector the statement covering the sale of each item
 3-24 of heavy equipment sold by the dealer in the preceding month. On or
 3-25 before the 10th day of a month following a month in which a dealer
 3-26 does not sell an item of heavy equipment, the dealer must file the
 3-27 statement with the collector and indicate that no sales were made in
 3-28 the prior month. A dealer shall file a copy of the statement with
 3-29 the chief appraiser and retain documentation relating to the
 3-30 disposition of each item of heavy equipment sold. A chief appraiser
 3-31 or collector may examine documents held by a dealer as provided by
 3-32 this subsection in the same manner, and subject to the same
 3-33 conditions, as provided by Section 23.1241(g).

3-34 (m) In addition to other penalties provided by law, a dealer
 3-35 who fails to file or fails to timely file a statement as required by
 3-36 this section shall forfeit a penalty. A tax lien attaches to the
 3-37 owner's business personal property to secure payment of the
 3-38 penalty. The appropriate district attorney, criminal district
 3-39 attorney, or county attorney shall collect the penalty established
 3-40 by this section in the name of the chief appraiser or collector.
 3-41 Venue of an action brought under this subsection is in the county in
 3-42 which the violation occurred or in the county in which the owner
 3-43 maintains the owner's principal place of business or residence. A
 3-44 penalty forfeited under this subsection is \$500 for each month or
 3-45 part of a month in which a statement is not filed or timely filed
 3-46 after it is due.

3-47 SECTION 6. Sections 23.125(b), (e), (f), and (n), Tax Code,
 3-48 are amended to read as follows:

3-49 (b) Except for a vessel or outboard motor sold to a dealer, a
 3-50 vessel or outboard motor included in a fleet transaction, or a
 3-51 vessel or outboard motor that is the subject of a subsequent sale,
 3-52 an owner or a person who has agreed by contract to pay the owner's
 3-53 current year property taxes levied against the owner's vessel and
 3-54 outboard motor inventory shall assign a unit property tax to each
 3-55 vessel and outboard motor sold from a dealer's vessel and outboard
 3-56 motor inventory. The unit property tax of each vessel or outboard
 3-57 motor is determined by multiplying the sales price of the vessel or
 3-58 outboard motor by the unit property tax factor. On or before the
 3-59 10th day of each month the owner shall, together with the statement
 3-60 filed by the owner as required [~~provided~~] by this section, deposit
 3-61 with the collector a sum equal to the total of unit property tax
 3-62 assigned to all vessels and outboard motors sold from the dealer's
 3-63 vessel and outboard motor inventory in the prior month to which a
 3-64 unit property tax was assigned. The money shall be deposited by the
 3-65 collector in or otherwise credited by the collector to the owner's
 3-66 escrow account for prepayment of property taxes as provided by this
 3-67 section. An escrow account required by this section is used to pay
 3-68 property taxes levied against the dealer's vessel and outboard
 3-69 motor inventory, and the owner shall fund the escrow account as

4-1 provided by this subsection.

4-2 (e) The comptroller shall promulgate a form entitled
4-3 "Dealer's Vessel and Outboard Motor Inventory Tax Statement." Each
4-4 month, a [A] dealer shall complete the form regardless of whether a
4-5 [with respect to each] vessel and outboard motor is sold. A dealer
4-6 may use no other form for that purpose. The statement may include
4-7 the information the comptroller deems appropriate but shall include
4-8 at least the following:

4-9 (1) a description of each ~~[the]~~ vessel or outboard
4-10 motor sold;

4-11 (2) the sales price of the vessel or outboard motor;

4-12 (3) the unit property tax of the vessel or outboard
4-13 motor, if any; and

4-14 (4) the reason no unit property tax is assigned if no
4-15 unit property tax is assigned.

4-16 (f) On or before the 10th day of each month a dealer shall
4-17 file with the collector the statement covering the sale of each
4-18 vessel or outboard motor sold by the dealer in the prior month. On
4-19 or before the 10th day of a month following a month in which a dealer
4-20 does not sell a vessel or outboard motor, the dealer must file the
4-21 statement with the collector and indicate that no sales were made in
4-22 the prior month. A dealer shall file a copy of the statement with
4-23 the chief appraiser and retain documentation relating to the
4-24 disposition of each vessel and outboard motor sold. A chief
4-25 appraiser or collector may examine documents held by a dealer as
4-26 provided by this subsection in the same manner, and subject to the
4-27 same provisions, as are set forth in Section 23.124(g) ~~[of this~~
4-28 ~~code]~~.

4-29 (n) In addition to other penalties provided by law, a dealer
4-30 who fails to file or fails to timely file a statement as required by
4-31 this section shall forfeit a penalty. A tax lien attaches to the
4-32 owner's business personal property to secure payment of the
4-33 penalty. The appropriate district attorney, criminal district
4-34 attorney, or county attorney shall collect the penalty established
4-35 by this section in the name of the chief appraiser or collector.
4-36 Venue of an action brought under this subsection is in the county in
4-37 which the violation occurred or in the county in which the owner
4-38 maintains the owner's ~~[his]~~ principal place of business or
4-39 residence. A penalty forfeited under this subsection is \$500 for
4-40 each month or part of a month in which a statement is not filed or
4-41 timely filed after it is due.

4-42 SECTION 7. Section 23.127(k), Tax Code, is amended to read
4-43 as follows:

4-44 (k) In addition to other penalties provided by law, a
4-45 retailer who fails to file or fails to timely file a declaration
4-46 required by Subsection (f) is liable for a penalty in the amount of
4-47 \$1,000 for each month or part of a month in which a declaration is
4-48 not filed or timely filed after it is due. A lien attaches to the
4-49 retailer's business personal property to secure payment of the
4-50 penalty. The appropriate district attorney, criminal district
4-51 attorney, county attorney, chief appraiser, or person designated by
4-52 the chief appraiser shall collect the penalty established by this
4-53 section in the name of the chief appraiser. Venue of an action
4-54 brought under this subsection is in the county in which the
4-55 violation occurred or in the county in which the retailer maintains
4-56 the retailer's principal place of business or residence.

4-57 SECTION 8. Sections 23.128(b), (e), (f), and (m), Tax Code,
4-58 are amended to read as follows:

4-59 (b) Except for a unit of manufactured housing sold to a
4-60 retailer or a unit of manufactured housing that is the subject of a
4-61 subsequent sale, a retailer or a person who has agreed by contract
4-62 to pay the retailer's current year property taxes imposed on the
4-63 retailer's manufactured housing inventory shall assign a unit
4-64 property tax to each unit of manufactured housing sold from a retail
4-65 manufactured housing inventory. The unit property tax of each unit
4-66 of manufactured housing is determined by multiplying the sales
4-67 price of the unit by the unit property tax factor. On or before the
4-68 10th day of each month the retailer shall, together with the
4-69 statement filed by the retailer as required ~~[provided]~~ by this

5-1 section, deposit with the collector an amount equal to the total of
 5-2 the unit property tax assigned to all units of manufactured housing
 5-3 sold from the retail manufactured housing inventory in the
 5-4 preceding month to which a unit property tax was assigned. The
 5-5 collector shall deposit the money to the credit of the retailer's
 5-6 escrow account for prepayment of property taxes as provided by this
 5-7 section. An escrow account required by this section is used to pay
 5-8 property taxes imposed on the retail manufactured housing
 5-9 inventory, and the retailer shall fund the escrow account as
 5-10 provided by this subsection.

5-11 (e) The comptroller by rule shall adopt a form entitled
 5-12 "Retail Manufactured Housing Inventory Tax Statement." Each month,
 5-13 a [A] retailer shall complete the form regardless of whether a [with
 5-14 respect to each] unit of manufactured housing is sold. A retailer
 5-15 may not use another form for that purpose. The statement shall
 5-16 include:

5-17 (1) a description of the unit of manufactured housing
 5-18 sold, including any unique identification or serial number affixed
 5-19 to each ~~the~~ unit by the manufacturer;

5-20 (2) the sales price of the unit of manufactured
 5-21 housing;

5-22 (3) any unit property tax of the unit of manufactured
 5-23 housing;

5-24 (4) the reason a unit property tax is not assigned if
 5-25 that is the case; and

5-26 (5) any other information the comptroller considers
 5-27 appropriate.

5-28 (f) On or before the 10th day of each month, a retailer shall
 5-29 file with the collector the statement covering the sale of each unit
 5-30 of manufactured housing sold by the retailer in the preceding
 5-31 month. On or before the 10th day of a month following a month in
 5-32 which a dealer does not sell a unit of manufactured housing, the
 5-33 dealer must file the statement with the collector and indicate that
 5-34 no sales were made in the prior month. A retailer shall file a copy
 5-35 of the statement with the chief appraiser and retain documentation
 5-36 relating to the disposition of each unit of manufactured housing
 5-37 sold. A chief appraiser or collector may examine documents held by
 5-38 a retailer as required by this subsection in the same manner, and
 5-39 subject to the same conditions, as in Section 23.127(g).

5-40 (m) In addition to other penalties provided by law, a
 5-41 retailer who fails to file or fails to timely file a statement as
 5-42 required by this section is liable for a penalty in the amount of
 5-43 \$500 for each month or part of a month in which a statement is not
 5-44 filed after it is due. A tax lien attaches to the retailer's
 5-45 business personal property to secure payment of the penalty. The
 5-46 appropriate district attorney, criminal district attorney, county
 5-47 attorney, collector, or person designated by the collector shall
 5-48 collect the penalty established by this section in the name of the
 5-49 collector. Venue of an action brought under this subsection is in
 5-50 the county in which the violation occurred or in the county in which
 5-51 the retailer maintains the retailer's principal place of business
 5-52 or residence.

5-53 SECTION 9. This Act takes effect September 1, 2009.

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