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S.B. No. 2149

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the reporting of certain inventories for ad valorem tax
3 purposes; providing penalties.

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

5 SECTION 1. Section 23.121(k), Tax Code, is amended to read
6 as follows:

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

21 SECTION 2. Sections 23.122(b), (e), (f), and (n), Tax Code,
22 are amended to read as follows:

23 (b) Except for a vehicle sold to a dealer, a vehicle
24 included in a fleet transaction, or a vehicle that is the subject of

1 a subsequent sale, an owner or a person who has agreed by contract
2 to pay the owner's current year property taxes levied against the
3 owner's motor vehicle inventory shall assign a unit property tax to
4 each motor vehicle sold from a dealer's motor vehicle inventory.
5 The unit property tax of each motor vehicle is determined by
6 multiplying the sales price of the motor vehicle by the unit
7 property tax factor. On or before the 10th day of each month the
8 owner shall, together with the statement filed by the owner as
9 required [~~provided~~] by this section, deposit with the collector a
10 sum equal to the total of unit property tax assigned to all motor
11 vehicles sold from the dealer's motor vehicle inventory in the
12 prior month to which a unit property tax was assigned. The money
13 shall be deposited by the collector in or otherwise credited by the
14 collector to the owner's escrow account for prepayment of property
15 taxes as provided by this section. An escrow account required by
16 this section is used to pay property taxes levied against the
17 dealer's motor vehicle inventory, and the owner shall fund the
18 escrow account as provided by this subsection.

19 (e) The comptroller shall promulgate a form entitled a
20 Dealer's Motor Vehicle Inventory Tax Statement. Each month, a [A]
21 dealer shall complete the form regardless of whether a [~~with~~
22 ~~respect to each~~] motor vehicle is sold. A dealer may use no other
23 form for that purpose. The statement may include the information
24 the comptroller deems appropriate but shall include at least the
25 following:

- 26 (1) a description of each [~~the~~] motor vehicle sold;
27 (2) the sales price of the motor vehicle;

1 (3) the unit property tax of the motor vehicle if any;
2 and

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

5 (f) On or before the 10th day of each month a dealer shall
6 file with the collector the statement covering the sale of each
7 motor vehicle sold by the dealer in the prior month. On or before
8 the 10th day of a month following a month in which a dealer does not
9 sell a motor vehicle, the dealer must file the statement with the
10 collector and indicate that no sales were made in the prior month.
11 A dealer shall file a copy of the statement with the chief appraiser
12 and retain documentation relating to the disposition of each motor
13 vehicle sold. A chief appraiser or collector may examine documents
14 held by a dealer as required by this subsection in the same manner,
15 and subject to the same provisions, as are set forth in Section
16 23.121(g) [~~of this code~~].

17 (n) In addition to other penalties provided by law, a dealer
18 who fails to file or fails to timely file a statement as required by
19 this section shall forfeit a penalty. A tax lien attaches to the
20 dealer's business personal property to secure payment of the
21 penalty. The appropriate district attorney, criminal district
22 attorney, county attorney, collector, or person designated by the
23 collector shall collect the penalty established by this section in
24 the name of the collector. Venue of an action brought under this
25 subsection is in the county in which the violation occurred or in
26 the county in which the owner maintains the owner's [~~his~~] principal
27 place of business or residence. A penalty forfeited under this

1 subsection is \$500 for each month or part of a month in which a
2 statement is not filed or timely filed after it is due.

3 SECTION 3. Section 23.124(k), Tax Code, is amended to read
4 as follows:

5 (k) In addition to other penalties provided by law, a dealer
6 who fails to file or fails to timely file a declaration required by
7 this section shall forfeit a penalty. A tax lien attaches to the
8 dealer's business personal property to secure payment of the
9 penalty. The appropriate district attorney, criminal district
10 attorney, or county attorney shall collect the penalty established
11 by this section in the name of the chief appraiser or collector.
12 Venue of an action brought under this subsection is in the county in
13 which the violation occurred or in the county in which the owner
14 maintains the owner's [~~his~~] principal place of business or
15 residence. A penalty forfeited under this subsection is \$1,000 for
16 each month or part of a month in which a declaration is not filed or
17 timely filed after it is due.

18 SECTION 4. Section 23.1241(j), Tax Code, is amended to read
19 as follows:

20 (j) In addition to other penalties provided by law, a dealer
21 who fails to file or fails to timely file a declaration required by
22 Subsection (f) shall forfeit a penalty. A tax lien attaches to the
23 dealer's business personal property to secure payment of the
24 penalty. The appropriate district attorney, criminal district
25 attorney, or county attorney shall collect the penalty established
26 by this section in the name of the chief appraiser or collector.
27 Venue of an action brought under this subsection is in the county in

1 which the violation occurred or in the county in which the owner
2 maintains the owner's principal place of business or residence. A
3 penalty forfeited under this subsection is \$1,000 for each month or
4 part of a month in which a declaration is not filed or timely filed
5 after it is due.

6 SECTION 5. Sections 23.1242(b), (e), (f), and (m), Tax
7 Code, are amended to read as follows:

8 (b) Except for an item of heavy equipment sold to a dealer,
9 an item of heavy equipment included in a fleet transaction, or an
10 item of heavy equipment that is the subject of a subsequent sale, an
11 owner or a person who has agreed by contract to pay the owner's
12 current year property taxes levied against the owner's heavy
13 equipment inventory shall assign a unit property tax to each item of
14 heavy equipment sold from a dealer's heavy equipment inventory.
15 The unit property tax of each item of heavy equipment is determined
16 by multiplying the sales price of the item by the unit property tax
17 factor. On or before the 10th day of each month the owner shall,
18 together with the statement filed by the owner as required
19 [~~provided~~] by this section, deposit with the collector an amount
20 equal to the total of unit property tax assigned to all items of
21 heavy equipment sold from the dealer's heavy equipment inventory in
22 the preceding month to which a unit property tax was assigned. The
23 money shall be deposited by the collector to the credit of the
24 owner's escrow account for prepayment of property taxes as provided
25 by this section. An escrow account required by this section is used
26 to pay property taxes levied against the dealer's heavy equipment
27 inventory, and the owner shall fund the escrow account as provided

1 by this subsection.

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

9 (1) a description of each [~~the~~] item of heavy
10 equipment sold, including any unique identification or serial
11 number affixed to the item by the manufacturer;

12 (2) the sales price of the item of heavy equipment;

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

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

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

1 conditions, as provided by Section 23.1241(g).

2 (m) In addition to other penalties provided by law, a dealer
3 who fails to file or fails to timely file a statement as required by
4 this section shall forfeit a penalty. A tax lien attaches to the
5 owner's business personal property to secure payment of the
6 penalty. The appropriate district attorney, criminal district
7 attorney, or county attorney shall collect the penalty established
8 by this section in the name of the chief appraiser or collector.
9 Venue of an action brought under this subsection is in the county in
10 which the violation occurred or in the county in which the owner
11 maintains the owner's principal place of business or residence. A
12 penalty forfeited under this subsection is \$500 for each month or
13 part of a month in which a statement is not filed or timely filed
14 after it is due.

15 SECTION 6. Sections 23.125(b), (e), (f), and (n), Tax Code,
16 are amended to read as follows:

17 (b) Except for a vessel or outboard motor sold to a dealer, a
18 vessel or outboard motor included in a fleet transaction, or a
19 vessel or outboard motor that is the subject of a subsequent sale,
20 an owner or a person who has agreed by contract to pay the owner's
21 current year property taxes levied against the owner's vessel and
22 outboard motor inventory shall assign a unit property tax to each
23 vessel and outboard motor sold from a dealer's vessel and outboard
24 motor inventory. The unit property tax of each vessel or outboard
25 motor is determined by multiplying the sales price of the vessel or
26 outboard motor by the unit property tax factor. On or before the
27 10th day of each month the owner shall, together with the statement

1 filed by the owner as required [~~provided~~] by this section, deposit
2 with the collector a sum equal to the total of unit property tax
3 assigned to all vessels and outboard motors sold from the dealer's
4 vessel and outboard motor inventory in the prior month to which a
5 unit property tax was assigned. The money shall be deposited by the
6 collector in or otherwise credited by the collector to the owner's
7 escrow account for prepayment of property taxes as provided by this
8 section. An escrow account required by this section is used to pay
9 property taxes levied against the dealer's vessel and outboard
10 motor inventory, and the owner shall fund the escrow account as
11 provided by this subsection.

12 (e) The comptroller shall promulgate a form entitled
13 "Dealer's Vessel and Outboard Motor Inventory Tax Statement." Each
14 month, a [A] dealer shall complete the form regardless of whether a
15 [~~with respect to each~~] vessel and outboard motor is sold. A dealer
16 may use no other form for that purpose. The statement may include
17 the information the comptroller deems appropriate but shall include
18 at least the following:

19 (1) a description of each [~~the~~] vessel or outboard
20 motor sold;

21 (2) the sales price of the vessel or outboard motor;

22 (3) the unit property tax of the vessel or outboard
23 motor, if any; and

24 (4) the reason no unit property tax is assigned if no
25 unit property tax is assigned.

26 (f) On or before the 10th day of each month a dealer shall
27 file with the collector the statement covering the sale of each

1 vessel or outboard motor sold by the dealer in the prior month. On
2 or before the 10th day of a month following a month in which a dealer
3 does not sell a vessel or outboard motor, the dealer must file the
4 statement with the collector and indicate that no sales were made in
5 the prior month. A dealer shall file a copy of the statement with
6 the chief appraiser and retain documentation relating to the
7 disposition of each vessel and outboard motor sold. A chief
8 appraiser or collector may examine documents held by a dealer as
9 provided by this subsection in the same manner, and subject to the
10 same provisions, as are set forth in Section 23.124(g) [~~of this~~
11 ~~code~~].

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

25 SECTION 7. Section 23.127(k), Tax Code, is amended to read
26 as follows:

27 (k) In addition to other penalties provided by law, a

1 retailer who fails to file or fails to timely file a declaration
2 required by Subsection (f) is liable for a penalty in the amount of
3 \$1,000 for each month or part of a month in which a declaration is
4 not filed or timely filed after it is due. A lien attaches to the
5 retailer's business personal property to secure payment of the
6 penalty. The appropriate district attorney, criminal district
7 attorney, county attorney, chief appraiser, or person designated by
8 the chief appraiser shall collect the penalty established by this
9 section in the name of the chief appraiser. Venue of an action
10 brought under this subsection is in the county in which the
11 violation occurred or in the county in which the retailer maintains
12 the retailer's principal place of business or residence.

13 SECTION 8. Sections 23.128(b), (e), (f), and (m), Tax Code,
14 are amended to read as follows:

15 (b) Except for a unit of manufactured housing sold to a
16 retailer or a unit of manufactured housing that is the subject of a
17 subsequent sale, a retailer or a person who has agreed by contract
18 to pay the retailer's current year property taxes imposed on the
19 retailer's manufactured housing inventory shall assign a unit
20 property tax to each unit of manufactured housing sold from a retail
21 manufactured housing inventory. The unit property tax of each unit
22 of manufactured housing is determined by multiplying the sales
23 price of the unit by the unit property tax factor. On or before the
24 10th day of each month the retailer shall, together with the
25 statement filed by the retailer as required [~~provided~~] by this
26 section, deposit with the collector an amount equal to the total of
27 the unit property tax assigned to all units of manufactured housing

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

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

15 (1) a description of the unit of manufactured housing
16 sold, including any unique identification or serial number affixed
17 to each [the] unit by the manufacturer;

18 (2) the sales price of the unit of manufactured
19 housing;

20 (3) any unit property tax of the unit of manufactured
21 housing;

22 (4) the reason a unit property tax is not assigned if
23 that is the case; and

24 (5) any other information the comptroller considers
25 appropriate.

26 (f) On or before the 10th day of each month, a retailer shall
27 file with the collector the statement covering the sale of each unit

1 of manufactured housing sold by the retailer in the preceding
2 month. On or before the 10th day of a month following a month in
3 which a dealer does not sell a unit of manufactured housing, the
4 dealer must file the statement with the collector and indicate that
5 no sales were made in the prior month. A retailer shall file a copy
6 of the statement with the chief appraiser and retain documentation
7 relating to the disposition of each unit of manufactured housing
8 sold. A chief appraiser or collector may examine documents held by
9 a retailer as required by this subsection in the same manner, and
10 subject to the same conditions, as in Section 23.127(g).

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

24 SECTION 9. This Act takes effect September 1, 2009.