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By:  Hughes S.B. No. 411

A BILL TO BE ENTITLED

AN ACT

relating to the appraisal for ad valorem tax purposes of tangible personal property held for sale at retail.

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

SECTION 1.  Sections 23.12(a) and (f), Tax Code, are amended to read as follows:

(a)  Except as provided by Sections 23.121, [~~23.1241,~~] 23.124, 23.1241, 23.1244, and 23.127, the market value of an inventory is the price for which it would sell as a unit to a purchaser who would continue the business. An inventory shall include residential real property which has never been occupied as a residence and is held for sale in the ordinary course of a trade or business, provided that the residential real property remains unoccupied, is not leased or rented, and produces no income.

(f)  The owner of an inventory other than a dealer's motor vehicle inventory as that term is defined by Section 23.121, [~~a dealer's heavy equipment inventory as that term is defined by Section 23.1241, or~~] a dealer's vessel and outboard motor inventory as that term is defined by Section 23.124, a dealer's heavy equipment inventory as that term is defined by Section 23.1241, a retail inventory as that term is defined by Section 23.1244, or a retail manufactured housing inventory as that term is defined by Section 23.127 may elect to have the inventory appraised at its market value as of September 1 of the year preceding the tax year to which the appraisal applies by filing an application with the chief appraiser requesting that the inventory be appraised as of September 1. The application must clearly describe the inventory to which it applies and be signed by the owner of the inventory. The application applies to the appraisal of the inventory in each tax year that begins after the next August 1 following the date the application is filed with the chief appraiser unless the owner of the inventory by written notice filed with the chief appraiser revokes the application or the ownership of the inventory changes. A notice revoking the application is effective for each tax year that begins after the next September following the date the notice of revocation is filed with the chief appraiser.

SECTION 2.  Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.1244 to read as follows:

Sec. 23.1244.  RETAILER'S RETAIL INVENTORY; VALUE. (a) In this section:

(1)  "Chief appraiser" means the chief appraiser for the appraisal district in which a retailer's retail inventory is located.

(2)  "Declaration" means a retailer's retail inventory declaration form adopted by the comptroller under this section.

(3)  "Retailer" means a person who is engaged in the business in this state of selling retail inventory. For purposes of this section, 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 retail inventory in a tax year, the term does not include a person who renders the person's retail inventory in that tax year by filing a rendition statement or property report under Chapter 22.

(4)  "Retail inventory" means all tangible personal property that a retailer holds for sale in this state during a 12-month period and for which the retailer is not otherwise entitled to an exemption from taxation. For purposes of this section, the term does not include:

(A)  real property; or

(B)  inventory that qualifies for appraisal under Section 23.121, 23.124, 23.1241, or 23.127.

(5)  "Sales price" means the total amount of money paid or to be paid to a retailer for the purchase of an item of retail inventory.

(6)  "Total annual sales" means the total of the sales price from every sale from a retailer's retail inventory for a 12-month period.

(b)  For the purpose of the computation of property tax,  the market value of a retailer's retail inventory on January 1 is the total annual sales, less sales at wholesale and sales to retailers, for the 12-month period corresponding to the preceding tax year, divided by 12.

(b-1)  Notwithstanding Subsection (b), for the nine-year period beginning January 1, 2020, and ending December 31, 2028, the market value of a retailer's retail inventory is the greater of:

(1)  the market value of that retail inventory on January 1 of the applicable tax year as determined under Subsection (b); or

(2)  the following percentages of the market value of that inventory on January 1 of the applicable tax year as determined under Section 23.12:

(A)  for the 2020 tax year, 90 percent of the market value;

(B)  for the 2021 tax year, 80 percent of the market value;

(C)  for the 2022 tax year, 70 percent of the market value;

(D)  for the 2023 tax year, 60 percent of the market value;

(E)  for the 2024 tax year, 50 percent of the market value;

(F)  for the 2025 tax year, 40 percent of the market value;

(G)  for the 2026 tax year, 30 percent of the market value;

(H)  for the 2027 tax year, 20 percent of the market value; and

(I)  for the 2028 tax year, 10 percent of the market value.

(c)  For the purpose of the computation of property tax on the market value of the retail inventory of an owner who was not a retailer on January 1 of the preceding tax year, the chief appraiser shall estimate the market value of the retailer's retail inventory. In making the estimate required by this subsection, the chief appraiser shall use sales data, if available, generated by sales from the retailer's retail inventory in the preceding tax year.

(c-1)  Notwithstanding Subsection (c), for the nine-year period beginning January 1, 2020, and ending December 31, 2028, the chief appraiser shall determine the market value of the retail inventory of an owner who was not a retailer on January 1 of the preceding tax year in the manner prescribed by Subsection (b-1) and shall use the estimated market value determined under Subsection (c) as the market value of the retail inventory for purposes of Subsection (b-1)(1).

(c-2)  This subsection and Subsections (b-1) and (c-1) expire December 31, 2028.

(d)  Except for retail inventory, tangible personal property held by a retailer is appraised as provided by the other sections of this code. In the case of a retailer whose sales from the retailer's retail inventory are made predominately to other retailers, the chief appraiser shall appraise the retailer's retail inventory as provided by Section 23.12.

(e)  A retailer is presumed to be an owner of retail inventory on January 1 if, in the 12-month period ending on December 31 of the preceding year, the retailer sold an item of retail inventory to a person other than a retailer.  The presumption is not rebutted by the fact that a retailer has no item of retail inventory physically on hand for sale from the retailer's retail inventory on January 1.

(f)  The comptroller by rule shall adopt a retailer's retail inventory declaration form. Not later than April 15 of each year, or, in the case of a retailer who was not in business on January 1, not later than 30 days after commencement of business, each retailer shall file a declaration with the chief appraiser for each location at which the retailer's retail inventory to be appraised as provided by this section is located. 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 retailer's retail inventory to be appraised as provided by this section is located;

(2)  a statement that the retailer is the owner of retail inventory; and

(3)  the market value of the retailer's retail inventory for the current tax year as computed under Subsection (b).

(g)  As provided by this subsection, the chief appraiser may examine the books and records of a retailer. A request made under this subsection must be made in writing, be delivered personally to the custodian of the records at a location at which the retailer conducts business, provide a period of not less than 15 days for the person to respond to the request, and state that the person to whom the request is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section, the chief appraiser may examine:

(1)  documentation appropriate to allow the chief appraiser to ascertain the applicability of this section to the person; and

(2)  sales records to substantiate information set forth in the declaration filed by the retailer.

(h)  A retailer who fails to timely file a declaration under Subsection (f) in a tax year waives any right to have the retailer's retail inventory appraised as provided by this section in that tax year.

(i)  Section 23.123 applies to a declaration filed under this section in the same manner in which that section applies to a declaration filed as required by Section 23.121.

SECTION 3.  The changes in law made by this Act apply only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 4.  This Act takes effect January 1, 2020.