

By: Burrows

H.B. No. 4617

A BILL TO BE ENTITLED

AN ACT

relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment inventory.

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

SECTION 1. Sections 23.1241(a)(1), (2), (7), (8), and (9), 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 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 at retail ~~[, lease, or rent]~~ in this state ~~[during a 12-month period]~~. The term includes items of heavy equipment that are leased or rented but subject to a purchase option by the lessee or renter.

(7) "Sales price" means:

(A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or

(B) for a lease or rental with an option to

1 purchase, the total amount of the lease or rental payments plus any  
2 final consideration, excluding interest.

3 (8) "Subsequent sale" means a dealer-financed sale of  
4 an item of heavy equipment that, at the time of the sale, has been  
5 the subject of a dealer-financed sale from the same dealer's heavy  
6 equipment inventory in the same calendar year. [~~The term does not~~  
7 ~~include a rental or lease with an unexercised purchase option or~~  
8 ~~without a purchase option.~~]

9 (9) "Total annual sales" means the total of the[+  
10 [~~(A)~~] sales price for each sale from a dealer's  
11 heavy equipment inventory in a 12-month period[~~, and~~  
12 [~~(B)~~ ~~lease and rental payments received for each~~  
13 ~~lease or rental of heavy equipment inventory in a 12-month period~~].

14 SECTION 2. Sections 23.1241(b) and (e), Tax Code, are  
15 amended to read as follows:

16 (b) For the purpose of the computation of property tax:

17 (1) [~~7~~] the market value of a dealer's heavy equipment  
18 inventory on January 1 is the total annual sales, less sales to  
19 dealers, fleet transactions, and subsequent sales, for the 12-month  
20 period corresponding to the preceding tax year, divided by 12; and

21 (2) a sale is considered to occur when possession of an  
22 item of heavy equipment is transferred from the dealer to the  
23 purchaser.

24 (e) A dealer is presumed to be an owner of a dealer's heavy  
25 equipment inventory on January 1 if, in the 12-month period ending  
26 on December 31 of the preceding year, the dealer sold[~~, leased, or~~  
27 ~~rented~~] an item of heavy equipment to a person other than a

1 dealer. The presumption is not rebutted by the fact that a dealer  
2 has no item of heavy equipment physically on hand for sale from the  
3 dealer's heavy equipment inventory on January 1.

4 SECTION 3. Sections 23.1242(b), (e), and (f), Tax Code, are  
5 amended to read as follows:

6 (b) Except for an item of heavy equipment sold to a dealer,  
7 an item of heavy equipment included in a fleet transaction, or an  
8 item of heavy equipment that is the subject of a subsequent sale,  
9 ~~[or an item of heavy equipment that is subject to a lease or~~  
10 ~~rental,]~~ an owner or a person who has agreed by contract to pay the  
11 owner's current year property taxes levied against the owner's  
12 heavy equipment inventory shall assign a unit property tax to each  
13 item of heavy equipment sold from a dealer's heavy equipment  
14 inventory. ~~[In the case of a lease or rental, the owner shall~~  
15 ~~assign a unit property tax to each item of heavy equipment leased or~~  
16 ~~rented.]~~ The unit property tax of each item of heavy equipment is  
17 determined by multiplying the sales price of the item ~~[or the~~  
18 ~~monthly lease or rental payment received for the item, as~~  
19 ~~applicable,]~~ by the unit property tax factor. ~~[If the transaction~~  
20 ~~is a lease or rental, the owner shall collect the unit property tax~~  
21 ~~from the lessee or renter at the time the lessee or renter submits~~  
22 ~~payment for the lease or rental. The owner of the equipment shall~~  
23 ~~state the amount of the unit property tax assigned as a separate~~  
24 ~~line item on an invoice.]~~ On or before the 20th day of each month  
25 the owner shall, together with the statement filed by the owner as  
26 required by this section, deposit with the collector an amount  
27 equal to the total of unit property tax assigned to all items of

1 heavy equipment sold[, ~~leased, or rented~~] from the dealer's heavy  
2 equipment inventory in the preceding month to which a unit property  
3 tax was assigned. The money shall be deposited by the collector to  
4 the credit of the owner's escrow account for prepayment of property  
5 taxes as provided by this section. An escrow account required by  
6 this section is used to pay property taxes levied against the  
7 dealer's heavy equipment inventory, and the owner shall fund the  
8 escrow account as provided by this subsection.

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

16 (1) a description of each item of heavy equipment  
17 sold, [~~leased, or rented~~] including any unique identification or  
18 serial number affixed to the item by the manufacturer;

19 (2) the sales price of [~~or lease or rental payment~~  
20 ~~received for~~] the item of heavy equipment[, ~~as applicable~~];

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

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

25 (f) On or before the 20th day of each month, a dealer shall  
26 file with the collector the statement covering the sale[, ~~lease, or~~  
27 ~~rental~~] of each item of heavy equipment sold[, ~~leased, or rented~~] by

1 the dealer in the preceding month. On or before the 20th day of a  
2 month following a month in which a dealer does not sell[~~, lease, or~~  
3 ~~rent~~] an item of heavy equipment, the dealer must file the statement  
4 with the collector and indicate that no sales[~~, leases, or rentals~~  
5 were made in the prior month. A dealer shall file a copy of the  
6 statement with the chief appraiser and retain documentation  
7 relating to the disposition of each item of heavy equipment sold  
8 [~~and the lease or rental of each item of heavy equipment~~]. A chief  
9 appraiser or collector may examine documents held by a dealer as  
10 provided by this subsection in the same manner, and subject to the  
11 same conditions, as provided by Section 23.1241(g).

12 SECTION 4. Section 23.1241(b-1), Tax Code, is repealed.

13 SECTION 5. This Act applies only to ad valorem taxes imposed  
14 for a tax year beginning on or after the effective date of this Act.

15 SECTION 6. This Act takes effect January 1, 2020.