

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

1 which the appraisal applies by filing an application with the chief
2 appraiser requesting that the inventory be appraised as of
3 September 1. The application must clearly describe the inventory
4 to which it applies and be signed by the owner of the inventory. The
5 application applies to the appraisal of the inventory in each tax
6 year that begins after the next August 1 following the date the
7 application is filed with the chief appraiser unless the owner of
8 the inventory by written notice filed with the chief appraiser
9 revokes the application or the ownership of the inventory changes.
10 A notice revoking the application is effective for each tax year
11 that begins after the next September following the date the notice
12 of revocation is filed with the chief appraiser.

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

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

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

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

22 (3) "Retailer" means a person who is engaged in the
23 business in this state of selling retail inventory. For purposes of
24 this section, the term does not include a bank, savings bank,
25 savings and loan association, credit union, or other finance
26 company. In addition, for purposes of taxation of a person's retail
27 inventory in a tax year, the term does not include a person who

1 renders the person's retail inventory in that tax year by filing a
2 rendition statement or property report under Chapter 22.

3 (4) "Retail inventory" means all tangible personal
4 property that a retailer holds for sale in this state during a
5 12-month period and for which the retailer is not otherwise
6 entitled to an exemption from taxation. For purposes of this
7 section, the term does not include:

8 (A) real property; or

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

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

14 (6) "Total annual sales" means the total of the sales
15 price from every sale from a retailer's retail inventory for a
16 12-month period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 from the retailer's retail inventory in the preceding tax year.

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

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

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

18 (e) A retailer is presumed to be an owner of retail
19 inventory on January 1 if, in the 12-month period ending on December
20 31 of the preceding year, the retailer sold an item of retail
21 inventory to a person other than a retailer. The presumption is
22 not rebutted by the fact that a retailer has no item of retail
23 inventory physically on hand for sale from the retailer's retail
24 inventory on January 1.

25 (f) The comptroller by rule shall adopt a retailer's retail
26 inventory declaration form. Not later than April 15 of each year,
27 or, in the case of a retailer who was not in business on January 1,

1 not later than 30 days after commencement of business, each
2 retailer shall file a declaration with the chief appraiser for each
3 location at which the retailer's retail inventory to be appraised
4 as provided by this section is located. The declaration is
5 sufficient to comply with this subsection if it sets forth:

6 (1) the name and business address of each location at
7 which the retailer's retail inventory to be appraised as provided
8 by this section is located;

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

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

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

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

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

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

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

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

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