

By: Murr

H.B. No. 3769

A BILL TO BE ENTITLED

AN ACT

relating to the ad valorem taxation of certain dealer's heavy equipment inventory.

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

SECTION 1. Section 23.1242, Tax Code, is amended by amending Subsections (b), (e), (f), (g), (j), (k), and (n) and adding Subsection (b-1) to read as follows:

(b) Except for an item of heavy equipment sold to a dealer, an item of heavy equipment included in a fleet transaction, an item of heavy equipment that is the subject of a subsequent sale, or an item of heavy equipment that is subject to a lease or rental, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's heavy equipment inventory shall assign a unit property tax to each item of heavy equipment sold from a dealer's heavy equipment inventory. In the case of a lease or rental, the owner shall assign a unit property tax to each item of heavy equipment leased or rented. The unit property tax of each item of heavy equipment is determined by multiplying the sales price of the item or the monthly lease or rental payment received for the item, as applicable, by the unit property tax factor. Except as otherwise provided by this subsection, if ~~if~~ the transaction is a lease or rental, the owner shall collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or

1 rental. The owner of the equipment shall state the amount of the
2 unit property tax assigned as a separate line item on an
3 invoice. If the item of heavy equipment is leased or rented to the
4 United States or an agency or instrumentality of the United States,
5 the owner of the equipment may not collect the unit property tax
6 from the lessee or renter and may not include the amount of the unit
7 property tax assigned as a separate line item on an invoice provided
8 to the lessee or renter. On or before the 20th day of the month
9 following each calendar quarter [~~month~~] the owner shall, together
10 with the statement filed by the owner as required by this section,
11 deposit with the collector an amount equal to the total of unit
12 property tax assigned to all items of heavy equipment sold, leased,
13 or rented from the dealer's heavy equipment inventory in the
14 preceding calendar quarter [~~month~~] to which a unit property tax was
15 assigned. The money shall be deposited by the collector to the
16 credit of the owner's escrow account for prepayment of property
17 taxes as provided by this section. An escrow account required by
18 this section is used to pay property taxes levied against the
19 dealer's heavy equipment inventory, and the owner shall fund the
20 escrow account as provided by this subsection.

21 (b-1) Not later than December 15 of each year, the collector
22 shall provide written notice to each owner for whom the collector
23 maintains an escrow account under Subsection (c) of the unit
24 property tax factor for the following tax year for each location in
25 which the owner's heavy equipment inventory is located.

26 (e) The comptroller by rule shall adopt a dealer's heavy
27 equipment inventory tax statement form. Each calendar quarter

1 ~~[month]~~, a dealer shall complete the form regardless of whether an
2 item of heavy equipment is sold, leased, or rented. A dealer may
3 use no other form for that purpose. The statement may include the
4 information the comptroller considers appropriate but shall
5 include at least the following:

6 (1) a description of each item of heavy equipment
7 sold, leased, or rented including any unique identification or
8 serial number affixed to the item by the manufacturer;

9 (2) the sales price of or lease or rental payment
10 received for the item of heavy equipment, as applicable;

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

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

15 (f) On or before the 20th day of the month following each
16 calendar quarter ~~[month]~~, a dealer shall file with the collector
17 the statement covering the sale, lease, or rental of each item of
18 heavy equipment sold, leased, or rented by the dealer in the
19 preceding calendar quarter ~~[month]~~. On or before the 20th day of
20 the ~~[a]~~ month following a calendar quarter ~~[month]~~ in which a dealer
21 does not sell, lease, or rent an item of heavy equipment, the dealer
22 must file the statement with the collector and indicate that no
23 sales, leases, or rentals were made in the preceding calendar
24 quarter ~~[prior month]~~. A dealer shall ~~[file a copy of the~~
25 ~~statement with the chief appraiser and]~~ retain documentation
26 relating to the disposition of each item of heavy equipment sold and
27 the lease or rental of each item of heavy equipment. A chief

1 appraiser or collector may examine documents held by a dealer as
2 provided by this subsection in the same manner, and subject to the
3 same conditions, as provided by Section 23.1241(g).

4 (g) Except as provided by this subsection, Subsection (f)
5 applies to any dealer, regardless of whether a dealer owes heavy
6 equipment inventory tax for the current year. A dealer who owes no
7 heavy equipment inventory tax for the current year because the
8 dealer was not in business on January 1:

9 (1) shall file the statement required by this section
10 showing the information required by this section for each calendar
11 quarter ~~[month]~~ that the dealer is in business; and

12 (2) may not assign a unit property tax to an item of
13 heavy equipment sold by the dealer or remit money with the statement
14 except in compliance with the terms of a contract as provided by
15 Subsection (k).

16 (j) The collector shall remit to each appropriate taxing
17 unit the total amount collected by the collector in deficiency
18 payments. The assessor of each taxing unit shall apply those funds
19 to the taxes owed by the owner. Taxes that are due but not received
20 by the collector on or before February 28 ~~[January 31]~~ are
21 delinquent. Not later than March 31 ~~[February 15]~~, the collector
22 shall distribute to each appropriate taxing unit in the manner
23 provided by this section all funds collected under authority of
24 this section and held in escrow by the collector under this
25 section. The ~~[This section does not impose a duty on a]~~ collector
26 shall ~~[to]~~ collect delinquent taxes as required by this section
27 regardless of whether ~~[that]~~ the collector is ~~[not]~~ otherwise

obligated by law or contract to collect the delinquent taxes.

(k) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year heavy equipment inventory taxes owed by the owner. The person who acquires the business or assets of the owner may use the same unit property tax factor that the owner who owes the current year tax would use when paying the current year tax. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the other person has agreed to pay the current year heavy equipment inventory taxes owed by the dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding Section 23.1241, a person who agrees to pay current year heavy equipment inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of the tax liability.

(n) An owner who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the owner shall pay an additional penalty of five percent of the amount due. Notwithstanding this section, unit property taxes paid on or before February 28 [~~January 31~~] of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's

1 taxes are delinquent.

2 SECTION 2. Section 31.02(a), Tax Code, is amended to read as
3 follows:

4 (a) Except as provided by Subsection (b) of this section and
5 by Sections 23.1242, 31.03, and 31.04 [~~of this code~~], taxes are due
6 on receipt of the tax bill and are delinquent if not paid before
7 February 1 of the year following the year in which imposed.

8 SECTION 3. This Act applies only to ad valorem taxes imposed
9 for an ad valorem tax year that begins on or after the effective
10 date of this Act.

11 SECTION 4. This Act takes effect January 1, 2024.