

By: Springer

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to the exemption of inventory from ad valorem taxation.

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

SECTION 1. Section 93.001(2), Business & Commerce Code, is amended to read as follows:

(2) "Heavy equipment" means self-propelled, self-powered, or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 pounds and is intended to be used for agricultural, construction, industrial, maritime, mining, or forestry uses. The term does not include a motor vehicle that is required by:

(A) Chapter 501, Transportation Code, to be titled; or

(B) Chapter 502, Transportation Code, to be registered [~~has the meaning assigned by Section 23.1241, Tax Code~~].

SECTION 2. Section 6.24(b), Tax Code, is amended to read as follows:

(b) The commissioners court with the approval of the county assessor-collector may contract as provided by the Interlocal Cooperation Act with the governing body of another taxing unit in the county or with the board of directors of the appraisal district for the other taxing unit or the district to perform duties relating to the assessment or collection of taxes for the county. If a county contracts to have its taxes assessed and collected by

1 another taxing unit or by the appraisal district, [~~except as~~
2 ~~provided by Subsection (c),~~] the contract shall require the other
3 taxing unit or the district to assess and collect all taxes the
4 county is required to assess and collect.

5 SECTION 3. Sections 11.251(b), (c), (d), and (h), Tax Code,
6 are amended to read as follows:

7 (b) A person is entitled to an exemption from taxation by a
8 taxing unit of the appraised value of that portion of the person's
9 [~~inventory or~~] property consisting of freeport goods as determined
10 under this section for the taxing unit.

11 (c) The exemption provided by Subsection (b) is subtracted
12 from the market value of the [~~inventory or~~] property [~~determined~~
13 ~~under Section 23.12~~] to determine the taxable value of the
14 [~~inventory or~~] property [~~for the taxing unit~~].

15 (d) Except as provided by Subsections (f) and (g), the chief
16 appraiser shall determine the appraised value of freeport goods
17 under this subsection. The chief appraiser shall determine the
18 percentage of the market value of [~~inventory or~~] property owned by
19 the property owner in the preceding calendar year that was
20 contributed by freeport goods. The chief appraiser shall apply
21 that percentage to the market value of the property owner's
22 [~~inventory or~~] property for the current year to determine the
23 appraised value of freeport goods for the current year.

24 (h) The chief appraiser by written notice delivered to a
25 property owner who claims an exemption under this section may
26 require the property owner or a person designated in writing by the
27 importer of record to provide copies of [~~inventory or~~] property

1 records in order to determine the amount and value of freeport
2 goods. If the property owner or designated person fails to deliver
3 the information requested in the notice before the 31st day after
4 the date the notice is delivered to the property owner or before the
5 date the appraisal review board approves the appraisal records
6 under Section 41.12, whichever is later, the property owner
7 forfeits the right to claim or receive the exemption for that year.
8 If the property owner or designated person delivers the information
9 requested in the notice before the date the appraisal review board
10 approves the appraisal records but not before the 31st day after the
11 date the notice is delivered to the property owner and the exemption
12 is allowed, the property owner is liable to each taxing unit for a
13 penalty in an amount equal to 10 percent of the difference between
14 the amount of tax imposed by the taxing unit on the [~~inventory or~~]
15 property and the amount that would otherwise have been imposed. The
16 chief appraiser shall make an entry on the appraisal records for the
17 [~~inventory or~~] property indicating the property owner's liability
18 for the penalty and shall deliver a written notice of imposition of
19 the penalty, explaining the reason for its imposition, to the
20 property owner. The assessor for a taxing unit that taxes the
21 [~~inventory or~~] property shall add the amount of the penalty to the
22 property owner's tax bill, and the tax collector for the taxing unit
23 shall collect the penalty at the time and in the manner the
24 collector collects the tax. The amount of the penalty constitutes a
25 lien against the [~~inventory or~~] property against which the penalty
26 is imposed, as if it were a tax, and accrues penalty and interest in
27 the same manner as a delinquent tax.

1 SECTION 4. Section 11.253(a)(2), Tax Code, is amended to
2 read as follows:

3 (2) "Goods-in-transit" means tangible personal
4 property that:

5 (A) is acquired in or imported into this state to
6 be forwarded to another location in this state or outside this
7 state;

8 (B) is stored under a contract of bailment by a
9 public warehouse operator at one or more public warehouse
10 facilities in this state that are not in any way owned or controlled
11 by the owner of the personal property for the account of the person
12 who acquired or imported the property;

13 (C) is transported to another location in this
14 state or outside this state not later than 175 days after the date
15 the person acquired the property in or imported the property into
16 this state; and

17 (D) does not include oil, natural gas, petroleum
18 products, or aircraft [~~, dealer's motor vehicle inventory, dealer's~~
19 ~~vessel and outboard motor inventory, dealer's heavy equipment~~
20 ~~inventory, or retail manufactured housing inventory~~].

21 SECTION 5. Section 11.253(c), Tax Code, is amended to read
22 as follows:

23 (c) The exemption provided by Subsection (b) is subtracted
24 from the market value of the property [~~determined under Section~~
25 ~~23.01 or 23.12, as applicable,~~] to determine the taxable value of
26 the property.

27 SECTION 6. Subchapter B, Chapter 11, Tax Code, is amended by

1 adding Section 11.36 to read as follows:

2 Sec. 11.36. INVENTORY. (a) In this section, "inventory"
3 means:

4 (1) a finished good held for sale or resale;

5 (2) a raw or finished material held to be incorporated
6 into or attached to tangible personal property to create a finished
7 good; or

8 (3) residential real property that has never been
9 occupied as a residence and is held for sale in the ordinary course
10 of a trade or business, provided that the residential real property
11 remains unoccupied, is not leased or rented, and produces no
12 income.

13 (b) A person is entitled to an exemption from taxation by a
14 taxing unit of inventory owned by the person.

15 SECTION 7. Sections 11.4391(b), (c), and (d), Tax Code, are
16 amended to read as follows:

17 (b) If the application is approved, the property owner is
18 liable to each taxing unit for a penalty in an amount equal to 10
19 percent of the difference between the amount of tax imposed by the
20 taxing unit on the [~~inventory or~~] property, a portion of which
21 consists of freeport goods, and the amount that would otherwise
22 have been imposed.

23 (c) The chief appraiser shall make an entry on the appraisal
24 records for the [~~inventory or~~] property indicating the property
25 owner's liability for the penalty and shall deliver a written
26 notice of imposition of the penalty, explaining the reason for its
27 imposition, to the property owner.

1 (d) The tax assessor for a taxing unit that taxes the
2 ~~[inventory or]~~ property shall add the amount of the penalty to the
3 property owner's tax bill, and the tax collector for the taxing unit
4 shall collect the penalty at the time and in the manner the
5 collector collects the tax. The amount of the penalty constitutes a
6 lien against the ~~[inventory or]~~ property against which the penalty
7 is imposed, as if it were a tax, and accrues penalty and interest in
8 the same manner as a delinquent tax.

9 SECTION 8. Sections 22.01(a) and (g), Tax Code, are amended
10 to read as follows:

11 (a) Except as provided by Chapter 24, a person shall render
12 for taxation all tangible personal property used for the production
13 of income that the person owns or that the person manages and
14 controls as a fiduciary on January 1. A rendition statement shall
15 contain:

- 16 (1) the name and address of the property owner;
- 17 (2) a description of the property by type or category;
- 18 (3) ~~[if the property is inventory, a description of~~
19 ~~each type of inventory and a general estimate of the quantity of~~
20 ~~each type of inventory,~~
- 21 ~~[(4)]~~ the physical location or taxable situs of the
22 property; and
- 23 (4) (4) ~~[(5)]~~ the property owner's good faith estimate of
24 the market value of the property or, at the option of the property
25 owner, the historical cost when new and the year of acquisition of
26 the property.

27 (g) A person's good faith estimate of the market value of

1 the property under Subsection (a)(4) [~~(a)(5)~~] is solely for the
2 purpose of compliance with the requirement to render tangible
3 personal property and is inadmissible in any subsequent protest,
4 hearing, appeal, suit, or other proceeding under this title
5 involving the property, except for:

6 (1) a proceeding to determine whether the person
7 complied with this section;

8 (2) a proceeding under Section 22.29(b); or

9 (3) a protest under Section 41.41.

10 SECTION 9. Section 22.04(d), Tax Code, is amended to read as
11 follows:

12 (d) This section does not apply to a motor vehicle that on
13 January 1 is located at a place of business of a person who holds a
14 wholesale motor vehicle auction general distinguishing number
15 issued by the Texas Department of Motor Vehicles under Chapter 503,
16 Transportation Code, for that place of business, and that:

17 (1) has not acquired taxable situs under Section
18 21.02(a)(1) in a taxing unit that participates in the appraisal
19 district because the vehicle is described by Section 21.02(d);

20 (2) is offered for sale by a dealer who holds a
21 dealer's general distinguishing number issued by the Texas
22 Department of Motor Vehicles under Chapter 503, Transportation
23 Code [~~and whose inventory of motor vehicles is subject to taxation~~
24 ~~in the manner provided by Sections 23.121 and 23.122~~]; or

25 (3) is collateral possessed by a lienholder and
26 offered for sale in foreclosure of a security interest.

27 SECTION 10. Section 22.07(c), Tax Code, is amended to read

1 as follows:

2 (c) The chief appraiser may request, either in writing or by
3 electronic means, that the property owner provide a statement
4 containing supporting information indicating how the value
5 rendered under Section 22.01(a)(4) [~~22.01(a)(5)~~] was
6 determined. The statement must:

7 (1) summarize information sufficient to identify the
8 property, including:

9 (A) the physical and economic characteristics
10 relevant to the opinion of value, if appropriate; and

11 (B) the source of the information used;

12 (2) state the effective date of the opinion of value;
13 and

14 (3) explain the basis of the value rendered, which may
15 be the depreciation schedules used for federal income tax purposes
16 if [~~If~~] the property owner is a business with 50 employees or
17 less[, ~~the property owner may base the estimate of value on the~~
18 ~~depreciation schedules used for federal income tax purposes~~].

19 SECTION 11. Sections 23.20(a), (b), and (c), Tax Code, are
20 amended to read as follows:

21 (a) A property owner [~~An owner of inventory or real~~
22 ~~property~~] may in writing waive the right to special appraisal
23 provided by [~~Section 23.12 or~~] Subchapter C, D, E, F, or G as to one
24 or more taxing units designated in the waiver. In a tax year in
25 which a waiver is in effect, the property is appraised for each
26 taxing unit to which the waiver applies at the value determined
27 under Subchapter A of this chapter or the value determined under

1 [~~Section 23.12 or~~] Subchapter C, D, E, F, or G, whichever is the
2 greater value.

3 (b) [~~A waiver of the right to special appraisal provided by~~
4 ~~Section 23.12 may be submitted at any time.~~] A waiver of the right
5 to special appraisal provided by Subchapter C, D, E, F, or G may be
6 submitted with an application for appraisal under that subchapter
7 or at any other time. A property owner who has waived special
8 appraisal under this section as to one or more taxing units may make
9 additional waivers under this section as to other taxing units in
10 which the property is located.

11 (c) A waiver under this section is effective for 25
12 consecutive tax years beginning on the first tax year in which the
13 waiver is effective without regard to whether the property is
14 subject to appraisal under [~~Section 23.12 or~~] Subchapter C, D, E, F,
15 or G. To be effective in the year in which the waiver is executed, it
16 must be filed before May 1 of that year with the chief appraiser of
17 the appraisal district in which the property is located, unless for
18 good cause shown the chief appraiser extends the filing deadline
19 for not more than 60 days. An application filed after the year's
20 deadline takes effect in the next tax year.

21 SECTION 12. The heading to Section 31.081, Tax Code, is
22 amended to read as follows:

23 Sec. 31.081. PROPERTY TAX WITHHOLDING ON PURCHASE OF
24 BUSINESS [~~OR INVENTORY~~].

25 SECTION 13. Sections 31.081(a), (f), and (g), Tax Code, are
26 amended to read as follows:

27 (a) This section applies only to a person who purchases a

1 business or [~~7~~] an interest in a business [~~7, or the inventory of a~~
2 ~~business~~] from a person who is liable under this title for the
3 payment of taxes imposed on personal property used in the operation
4 of that business.

5 (f) This section does not release a person who sells a
6 business [~~or the inventory of a business~~] from any personal
7 liability imposed on the person for the payment of taxes imposed on
8 the personal property of the business or for penalties or interest
9 on those taxes.

10 (g) For purposes of this section, + [~~+~~
11 [~~(1)~~] a person is considered to have purchased a
12 business if the person purchases the name of the business or the
13 goodwill associated with the business [~~7, and~~

14 [~~(2) a person is considered to have purchased the~~
15 ~~inventory of a business if the person purchases inventory of a~~
16 ~~business, the value of which is at least 50 percent of the value of~~
17 ~~the total inventory of the business on the date of the purchase]~~.

18 SECTION 14. Section 32.01(b), Tax Code, is amended to read
19 as follows:

20 (b) A tax lien on [~~inventory,~~] furniture, equipment, or
21 other personal property is a lien in solido and attaches to all
22 [~~inventory,~~] furniture, equipment, and other personal property
23 that the property owner owns on January 1 of the year the lien
24 attaches or that the property owner subsequently acquires.

25 SECTION 15. Section 41.44(a), Tax Code, is amended to read
26 as follows:

27 (a) Except as provided by Subsections (b), (c), (c-1), and

1 (c-2), to be entitled to a hearing and determination of a protest,
2 the property owner initiating the protest must file a written
3 notice of the protest with the appraisal review board having
4 authority to hear the matter protested:

5 (1) not later than May 15 or the 30th day after the
6 date that notice to the property owner was delivered to the property
7 owner as provided by Section 25.19, whichever is later;

8 (2) in the case of a protest of a change in the
9 appraisal records ordered as provided by Subchapter A of this
10 chapter or by Chapter 25, not later than the 30th day after the date
11 notice of the change is delivered to the property owner;

12 (3) in the case of a determination that a change in the
13 use of land appraised under Subchapter C, D, E, or H, Chapter 23,
14 has occurred, not later than the 30th day after the date the notice
15 of the determination is delivered to the property owner; or

16 (4) ~~[in the case of a determination of eligibility for~~
17 ~~a refund under Section 23.1243, not later than the 30th day after~~
18 ~~the date the notice of the determination is delivered to the~~
19 ~~property owner; or~~

20 ~~[(5)]~~ in the case of a protest of the modification or
21 denial of an application for an exemption under Section 11.35, or
22 the determination of an appropriate damage assessment rating for an
23 item of qualified property under that section, not later than the
24 30th day after the date the property owner receives the notice
25 required under Section 11.45(e).

26 SECTION 16. Sections 42.01(a) and (c), Tax Code, are
27 amended to read as follows:

1 (a) A property owner is entitled to appeal:

2 (1) an order of the appraisal review board
3 determining:

4 (A) a protest by the property owner as provided
5 by Subchapter C of Chapter 41;

6 (B) a motion filed under Section 25.25;

7 (C) that the property owner has forfeited the
8 right to a final determination of a motion filed under Section 25.25
9 or of a protest under Section 41.411 for failing to comply with the
10 prepayment requirements of Section 25.26 or 41.4115, as applicable;
11 or

12 (D) [~~eligibility for a refund requested under~~
13 ~~Section 23.1243, or~~

14 [~~(E)~~] that the appraisal review board lacks
15 jurisdiction to finally determine a protest by the property owner
16 under Subchapter C, Chapter 41, or a motion filed by the property
17 owner under Section 25.25 because the property owner failed to
18 comply with a requirement of Subchapter C, Chapter 41, or Section
19 25.25, as applicable; or

20 (2) an order of the comptroller issued as provided by
21 Subchapter B, Chapter 24, apportioning among the counties the
22 appraised value of railroad rolling stock owned by the property
23 owner.

24 (c) A property owner who establishes that the appraisal
25 review board had jurisdiction to issue a final determination of the
26 protest by the property owner under Subchapter C, Chapter 41, or of
27 the motion filed by the property owner under Section 25.25 in an

1 appeal under Subsection (a)(1)(D) [~~(a)(1)(E)~~] of this section is
2 entitled to a final determination by the court of the protest under
3 Subchapter C, Chapter 41, or of the motion filed under Section
4 25.25. A final determination of a protest under Subchapter C,
5 Chapter 41, by the court under this subsection may be on any ground
6 of protest authorized by this title applicable to the property that
7 is the subject of the protest, regardless of whether the property
8 owner included the ground in the property owner's notice of
9 protest.

10 SECTION 17. Sections 312.204(a) and (g), Tax Code, are
11 amended to read as follows:

12 (a) The governing body of a municipality eligible to enter
13 into tax abatement agreements under Section 312.002 may agree in
14 writing with the owner of taxable real property that is located in a
15 reinvestment zone, but that is not in an improvement project
16 financed by tax increment bonds, to exempt from taxation a portion
17 of the value of the real property or of tangible personal property
18 located on the real property, or both, for a period not to exceed 10
19 years, on the condition that the owner of the property make specific
20 improvements or repairs to the property. The governing body of an
21 eligible municipality may agree in writing with the owner of a
22 leasehold interest in tax-exempt real property that is located in a
23 reinvestment zone, but that is not in an improvement project
24 financed by tax increment bonds, to exempt a portion of the value of
25 property subject to ad valorem taxation, including the leasehold
26 interest, improvements, or tangible personal property located on
27 the real property, for a period not to exceed 10 years, on the

1 condition that the owner of the leasehold interest make specific
2 improvements or repairs to the real property. A tax abatement
3 agreement under this section is subject to the rights of holders of
4 outstanding bonds of the municipality. An agreement exempting
5 taxable real property or leasehold interests or improvements on
6 tax-exempt real property may provide for the exemption of such
7 taxable interests in each year covered by the agreement only to the
8 extent its value for that year exceeds its value for the year in
9 which the agreement is executed. An agreement exempting tangible
10 personal property located on taxable or tax-exempt real property
11 may provide for the exemption of tangible personal property located
12 on the real property in each year covered by the agreement other
13 than tangible personal property that was located on the real
14 property at any time before the period covered by the agreement with
15 the municipality, including [~~inventory and~~] supplies. In a
16 municipality that has a comprehensive zoning ordinance, an
17 improvement, repair, development, or redevelopment taking place
18 under an agreement under this section must conform to the
19 comprehensive zoning ordinance.

20 (g) Notwithstanding the other provisions of this chapter,
21 the governing body of a municipality eligible to enter into tax
22 abatement agreements under Section [312.002](#) may agree in writing
23 with the owner of real property that is located in a reinvestment
24 zone to exempt from taxation for a period not to exceed five years a
25 portion of the value of the real property or of tangible personal
26 property located on the real property, or both, that is used to
27 provide housing for military personnel employed at a military

1 facility located in or near the municipality. An agreement may
2 provide for the exemption of the real property in each year covered
3 by the agreement only to the extent its value for that year exceeds
4 its value for the year in which the agreement is executed. An
5 agreement may provide for the exemption of tangible personal
6 property located on the real property in each year covered by the
7 agreement other than tangible personal property that was located on
8 the real property at any time before the period covered by the
9 agreement with the municipality and other than [~~inventory or~~]
10 supplies. The governing body of the municipality may adopt
11 guidelines and criteria for tax abatement agreements entered into
12 under this subsection that are different from the guidelines and
13 criteria that apply to tax abatement agreements entered into under
14 another provision of this section. Tax abatement agreements
15 entered into under this subsection are not required to contain
16 identical terms for the portion of the value of the property that is
17 to be exempt or for the duration of the exemption as tax abatement
18 agreements entered into with the owners of property in the
19 reinvestment zone under another provision of this section.

20 SECTION 18. Section 503.038(a), Transportation Code, is
21 amended to read as follows:

22 (a) The department may cancel a dealer's general
23 distinguishing number if the dealer:

24 (1) falsifies or forges a title document, including an
25 affidavit making application for a certified copy of a title;

26 (2) files a false or forged tax document, including a
27 sales tax affidavit;

1 (3) fails to take assignment of any basic evidence of
2 ownership, including a certificate of title or manufacturer's
3 certificate, for a vehicle the dealer acquires;

4 (4) fails to assign any basic evidence of ownership,
5 including a certificate of title or manufacturer's certificate, for
6 a vehicle the dealer sells;

7 (5) uses or permits the use of a metal dealer's license
8 plate or a dealer's temporary tag on a vehicle that the dealer does
9 not own or control or that is not in stock and offered for sale;

10 (6) makes a material misrepresentation in an
11 application or other information filed with the department;

12 (7) fails to maintain the qualifications for a general
13 distinguishing number;

14 (8) fails to provide to the department within 30 days
15 after the date of demand by the department satisfactory and
16 reasonable evidence that the person is regularly and actively
17 engaged in business as a wholesale or retail dealer;

18 (9) has been licensed for at least 12 months and has
19 not assigned at least five vehicles during the previous 12-month
20 period;

21 (10) ~~[has failed to demonstrate compliance with~~
22 ~~Sections 23.12, 23.121, and 23.122, Tax Code,~~

23 ~~[(11)]~~ uses or allows the use of the dealer's general
24 distinguishing number or the location for which the general
25 distinguishing number is issued to avoid the requirements of this
26 chapter;

27 (11) ~~[(12)]~~ misuses or allows the misuse of a

1 temporary tag authorized under this chapter;

2 (12) [~~(13)~~] refuses to show on a buyer's temporary tag
3 the date of sale or other reasonable information required by the
4 department; or

5 (13) [~~(14)~~] otherwise violates this chapter or a rule
6 adopted under this chapter.

7 SECTION 19. The following provisions of the Tax Code are
8 repealed:

- 9 (1) Section 6.24(c);
- 10 (2) Section 11.253(a)(1);
- 11 (3) Section 23.12;
- 12 (4) Section 23.121;
- 13 (5) Section 23.1211;
- 14 (6) Section 23.122;
- 15 (7) Section 23.123;
- 16 (8) Section 23.124;
- 17 (9) Section 23.1241;
- 18 (10) Section 23.1242;
- 19 (11) Section 23.1243;
- 20 (12) Section 23.125;
- 21 (13) Section 23.126;
- 22 (14) Section 23.127;
- 23 (15) Section 23.128;
- 24 (16) Section 23.129; and
- 25 (17) Section 41.47(c-1).

26 SECTION 20. (a) This Act applies only to a tax year that
27 begins on or after the effective date of this Act.

1 (b) Sections 23.121, 23.122, 23.123, 23.124, 23.125,
2 23.126, 23.127, and 23.128, Tax Code, as repealed by this Act, apply
3 only to an offense committed before the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this subsection, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 (c) Notwithstanding the changes in law made by this Act to
11 the provisions of the Business & Commerce Code, Tax Code, and
12 Transportation Code amended by this Act and the repeal by this Act
13 of provisions of the Tax Code, each of those provisions, as it
14 existed immediately before January 1, 2024, is continued in effect
15 for the purpose of the levy and collection of an ad valorem tax on
16 inventory imposed before January 1, 2024.

17 SECTION 21. This Act takes effect January 1, 2024, but only
18 if the constitutional amendment proposed by the 88th Legislature,
19 Regular Session, 2023, authorizing the legislature to exempt from
20 ad valorem taxation a person's inventory is approved by the voters.
21 If that amendment is not approved by the voters, this Act has no
22 effect.