

Public Hearing to Discuss the Taxation of Tangible Personal Property in Transit Which Would Otherwise Be Exempt Pursuant To Texas Tax Code, Section 11.253 – (Goods in Transit)

October 25, 2011

SUMMARY:

The information included in this summary is taken from a letter dated August 23, 2011 from Robert Mott of Perdue, Brandon, Fielder, Collins & Mott LLP, attorneys for the Denton Central Appraisal District. Additional information is provided by Joe Rogers with the Denton Central Appraisal District. In the 2007 session, the Texas Legislature passed HB 621. This bill was the implementing legislation for a constitutional amendment that was passed several years ago. During the 2011 special session, legislature acted to significantly limit the applicability of section 11.253. The exemption now applies only to goods that are stored in a public warehouse owned by someone other than the owner of the goods and that are transferred from that location to another location within 175 days. The law no longer exempts goods that are in a location for assembly, manufacturing, fabrication or processing, as was the case under the law passed in 2007. Certain specific types of goods are presently excluded from this exemption: oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory. Petroleum products are defined to be only the immediate derivatives of oil and natural gas, so some goods that you might think of as petroleum products may actually be exempted from taxation by this new law. This update to the law requires action to be taken after October 1, 2011 and before December 31, 2011 if we want to continue to tax such goods in 2012.

PREVIOUS BOARD ACTION:

A public hearing to discuss the taxation of tangible personal property in transit which would otherwise be exempt pursuant to Texas tax code section 11.253 was held November 13, 2007. A resolution to continue to tax the goods in transit was held November 13, 2007.

BACKGROUND INFORMATION:

This law exempts goods, principally inventory, that are stored under a contract of bailment by a public warehouse operator at a public warehouse facility, that is in no way owned or controlled by the owner of the goods, provided such property is moved to another location in this state or out of state within 175 days after the goods were acquired in Texas or imported into Texas. The movement requirement could be satisfied by simply moving the goods to another warehouse across the street.

SIGNIFICANT ISSUES:

At present, this new law will probably have a limited impact because most goods are kept in facilities owned by the owners of the goods. However, this may change. Some owners of goods that presently store them may move their goods into a public warehouse in order to obtain the tax exemption. It should be noted, however, that this pared down exemption has much less potential to reduce the tax base than the original statute.

FISCAL IMPLICATIONS:

Currently there is at least \$336,673,817 in inventory appraised value on the DISD tax rolls. Our current Freeport exemption loss is \$158,800,271 and the Goods in Transit exemption loss is \$177,873,546. This would equate to approximately \$71,149 in tax revenue (which is based on \$.04 of the tax rate).

BENEFIT OF ACTION:

The District will continue to tax these goods with the approval of the resolution.

PROCEDURAL AND REPORTING IMPLICATIONS:

The Board of Trustees must take official action by resolution if these goods are to be taxed in future years. The Denton ISD must inform the appraisal district if a resolution is approved to tax these goods.

PUBLIC COMMENT RECEIVED:

The Denton ISD must hold a public hearing on the question of whether to tax the goods or let them become exempt.

ALTERNATIVES:

These goods will become exempt in 2012 if no action is taken by the Board of Trustees prior to the end of 2011.

SUPERINTENDENT’S RECOMMENDATION:

Recommend approval of the Resolution to Tax Tangible Personal Property in Transit Which Would Otherwise Be Exempt Pursuant to Texas Tax Code, Section 11.253.

STAFF PERSONS RESPONSIBLE:

Debbie Monschke, Executive Director of Budget and Finance

ATTACHMENT:

Letter from Perdue, Brandon, Fielder, Collins, & Mott LLP
Resolution

APPROVAL:

Signature of Staff Member Proposing Recommendation: _____

Comments: _____

Signature of Divisional Leader: _____

Comments: _____

Signature of Superintendent: _____

Comments: _____