

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 – (Freeport Exemption)

November 13, 2007

SUMMARY:

The information included in this summary is taken from a letter dated August 20, 2007 from Robert Mott of Perdue, Brandon, Fielder, Collins & Mott LLP, attorneys for the Denton Central Appraisal District. Additional information is provided by John England 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.

PREVIOUS BOARD ACTION:

Information regarding HB 621 was discussed during the City Council/Denton ISD Board of Trustee meeting on October 1, 2007.

BACKGROUND INFORMATION:

The new law passed without much scrutiny because it was a bracket bill that only affected one county in Texas until the closing days of the legislative session. Then an amendment made the exemption applicable statewide. Some sort of correction is to be offered in the 2009 legislature to limit its impact. Therefore, there is a real possibility that this will be a one year benefit only, if this bill is modified to reflect the lawmaker's original intent.

SIGNIFICANT ISSUES:

At present, this new law will probably have a limited impact because most goods are kept in facilities that are owned by the owners of the goods themselves. However, this may change rapidly. In order to take advantage of this new law, many property owners may seek to transfer ownership of either the goods or the facilities in which the goods are stored, manufactured, processed, etc. to legal entities with different ownership. These types of paper changes could make the property exempt.

FISCAL IMPLICATIONS:

This bill exempts goods, principally inventory, that are stored in a location that is not owned by the owner of the goods and are transferred from that location to another location within 175 days. The goods may be in the location for the purposes of assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property. 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.

Currently there is at least \$216,500,000 in inventory appraised value on the DISD tax rolls subject to the old Freeport Exemption. Our current Freeport exemption loss is \$179,624,942. Mr. England estimates that if all 2007 non-retail inventories were fully exempt in DISD the value loss, over and above the current Freeport exemption losses would be an additional \$36,875,058. This would equate to approximately \$528,788 in tax revenue.

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 2008 if no action is taken by the Board of Trustees prior to the end of 2007.

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
Email from Mr. John England of the Denton Central Appraisal District
Resolution

APPROVAL:

Signature of Staff Member Proposing Recommendation: _____

Comments: _____

Signature of Divisional Leader: _____

Comments: _____

Signature of Superintendent: _____

Comments: _____