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September 10, 2007

Mr. Horace Williams  
Superintendent  
Cedar Hill Independent School District  
270 S. Highway 67  
Cedar Hill, Texas 75104

RE: House Bill 621 / Exemption of goods in transit

Dear Mr. Williams:

In November 2001, Texas voters approved Proposition 10 (SJR by Duncan, et al.), amending the Constitution to allow the Legislature to exempt from taxation goods-in-transit that are stored temporarily en route to another location in Texas or outside the state (Art. 8, sec. 1-n). Exempt property would include the same types of goods and products eligible for the freeport exemption. The 77th Legislature, however, did not enact enabling legislation to accompany the constitutional amendment, nor did subsequent legislatures do so until the 80<sup>th</sup> Legislature acted by passing House Bill 621.

Under Art. 8, sec. 1-n, property eligible for the exemption must be acquired in or brought into Texas and stored at a location not owned or controlled by the property owner for not more than 270 days after acquisition or importation. Unlike "freeport goods," goods in transit need not be shipped out of state to qualify for the exemption. ***Governing bodies of taxing entities may choose to tax goods in transit but must hold a public hearing before acting to do so.*** Owners of property eligible for the freeport exemption may apply for the goods-in-transit exemption if the Legislature enacts enabling legislation, subject to the decisions of local taxing entities. However, an owner receiving the goods-in-transit exemption may not claim the freeport exemption for the same property.

HB 621 implements the goods-in-transit exemption authorized by Texas Constitution, Art. 8, sec. 1-n. The bill defines "goods-in-transit" as tangible personal property stored in a location whose owner did not have direct or indirect ownership of the property. The property may be held at that location for no more than 175 days before being forwarded to another location in Texas or outside the state. The bill excludes the following from the definition of goods-in-transit:

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oil; natural gas; petroleum products; aircraft; dealers' inventory of motor vehicles, vessels, and outboard motors; heavy equipment; and retail manufactured housing.

***The governing body of a local taxing entity may elect to tax goods-in-transit, but only after holding a public hearing.*** The decision must be made before January 1 of the first tax year in which the entity proposed to tax these goods. So, ***if your taxing unit chooses to tax goods-in-transit for the tax year 2008 and subsequent years, the governing body must act prior to January 1, 2008.*** If your taxing unit elects to tax goods-in-transit, those goods will remain taxable until the governing body takes action to rescind or repeal its previous action and grant the exemption.

If your governing body favors the exemption, then your taxing unit need not take any action. In the event that your governing body wishes to take the affirmative action necessary in taxing the property, we are enclosing herewith a form of Resolution or Order which needs to be passed and approved by the governing body prior to January 1, 2008. Note, however, that ***before acting to tax the property, the governing body must first hold a public hearing for the purpose of providing your citizens the opportunity of expressing their opinions on the subject.***

A copy of HB 621 is also enclosed. We hope you find this material helpful, regardless of which policy your taxing unit chooses to follow. Please feel free to call on us if we can be of further assistance.

Very truly yours,

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

By:   
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TRACY A. POUNDERS  
Attorney

Enclosures