

## CHAPTER 672

## S.B. No. 878

## AN ACT

relating to the value of certain types of property for purposes of property taxation and to the prepayment of property taxes by certain taxpayers; creating offenses and providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (a), Section 23.12, Tax Code, is amended to read as follows:

(a) *Except as provided by Section 23.12A of this code, the [The] market value of an inventory is the price for which it would sell as a unit to a purchaser who would continue the business. An inventory shall include residential real property which has never been occupied as a residence and is held for sale in the ordinary course of a trade or business, provided that the residential real property remains unoccupied, is not leased or rented, and produces no income.*

SECTION 2. Subsection (f), Section 23.12, Tax Code, is amended to read as follows:

(f) The owner of an inventory *other than an applicable inventory as that term is defined in Section 23.12A of this code* may elect to have the inventory appraised at its market value as of September 1 of the year preceding the tax year to which the appraisal applies by filing an application with the chief appraiser requesting that the inventory be appraised as of September 1. The application must clearly describe the inventory to which it applies and be signed by the owner of the inventory. The application applies to the appraisal of the inventory in each tax year that begins after the next August 1 following the date the application is filed with the chief appraiser unless the owner of the inventory by written notice filed with the chief appraiser revokes the application or the ownership of the inventory changes. A notice revoking the application is effective for each tax year that begins after the next September 1 following the date the notice of revocation is filed with the chief appraiser.

SECTION 3. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.12A to read as follows:

**Sec. 23.12A. SPECIAL INVENTORY; VALUE.** (a) *In this section:*

(1) *"Applicable inventory" means an inventory that is held for resale and that consists of individual units of personal property, each unit of which must, as a matter of law, be titled in the name of the retail purchaser and be registered with the Texas Department of Transportation through the office of the county tax assessor-collector:*

(2) *"Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Transportation under the authority of Article 6686, Revised Statutes.*

(3) *"Excluded inventory" means that part of an applicable inventory that:*

(A) *is included in a transaction consisting of five or more units sold to a single business entity that has a manufacturer's or distributor's fleet identification number authorizing the entity to make fleet purchases;*

(B) *is included in a transaction between dealers; or*

(C) *consists of vehicles classified as medium or heavy duty trucks of 16,000 pounds gross vehicular weight or more.*

(4) *"Owner" means the person responsible for the payment of property taxes levied against a special inventory.*

(5) *"Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Transportation.*

(6) *"Special inventory" means that part of an applicable inventory that remains after subtracting units included in excluded inventory.*

(7) *"Total annual sales" means the total of the sales price from every sale of units from a special inventory for a 12-month period or for that portion of a 12-month period for which the owner of a special inventory is responsible for the payment of property taxes levied against the special inventory.*

(b) *Except as provided by Subsection (c) of this section, for the purpose of the computation of property tax, the market value of a special inventory on January 1 is the total annual sales from the special inventory for the 12-month period corresponding to the prior tax year, divided by 12.*

(c) *For the purpose of the computation of property tax, the market value of a special inventory with respect to which sales were not made for the entire 12-month period corresponding to the prior tax year, the chief appraiser may estimate the market value of the special inventory. In making the estimate allowed by this subsection the chief appraiser shall extrapolate using sales data, if any, generated from the special inventory in the prior tax year.*

(d) *Excluded inventory described in Subsection (a)(3)(C) of this section is appraised as provided by Section 23.12(a) of this code.*

SECTION 4. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.12B to read as follows:

**Sec. 23.12B. PREPAYMENT OF TAXES BY CERTAIN TAXPAYERS.** (a) *In this section:*

(1) *"Chief appraiser" means the chief appraiser for the appraisal district in which is located an applicable inventory.*

(2) *"Collector" means the county tax assessor-collector in the county in which is located a special inventory.*

(3) *"County aggregate tax rate" means the combined tax rate of all relevant taxing units in a county.*

(4) *"Owner" has the meaning given it in Section 23.12A of this code.*

(5) *"Relevant taxing unit" means a taxing unit, including the county, authorized by law to levy property taxes against a special inventory.*

(6) "Sales price" has the meaning given it in Section 23.12A of this code.

(7) "Special inventory" has the meaning given it in Section 23.12A of this code.

(8) "Special inventory tax statement" means the form promulgated by the comptroller of public accounts as required by this section.

(9) "Total annual sales" has the meaning given it in Section 23.12A of this code.

(10) "Unit property tax value factor" is one-twelfth of the most recent county aggregate tax rate for the county in which a special inventory is located.

(b) An owner shall assign a unit property tax value to each unit sold from a special inventory. The unit property tax value of each unit is determined by multiplying the sales price of the unit by the unit property tax value factor. On or before the 10th day of each month the owner shall deposit with the collector a sum equal to the total of unit property tax value assigned to all units sold from the special inventory in the prior month. The money shall be deposited by the collector in or otherwise credited by the collector to the owner's escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the special inventory, and the owner shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each owner in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each owner. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector, and that interest may be used by no entity other than the collector.

(d) The owner may not withdraw the money in the escrow account.

(e) The comptroller of public accounts shall promulgate a form entitled a Special Inventory Tax Statement. The owner of a special inventory shall complete the form with respect to each unit sold from the owner's applicable inventory and may use no other form for that purpose. The form may include the information the comptroller deems appropriate but shall include at least the following:

(1) a description of the unit sold;

(2) a statement as to whether or not the unit was sold from the owner's special inventory;

(3) the sales price of the unit;

(4) the unit property tax value of the unit if the unit was sold from the owner's special inventory; and

(5) the reason the unit was excluded from the owner's special inventory, if no unit property tax value is assigned.

(f) On or before the 10th day of each month the owner of a special inventory shall file with the chief appraiser the special inventory tax statement for each unit sold by the owner from the owner's applicable inventory in the prior month. An owner shall retain documentation relating to the disposition of each unit sold from an applicable inventory, including documentation relating to the exclusion of a unit from special inventory and shall make that documentation available to the chief appraiser upon request.

(g) A relevant taxing unit shall, on its tax bill prepared for the owner of a special inventory, separately itemize the taxes levied against the special inventory. When the tax bill is prepared by a relevant taxing unit for a special inventory, the assessor for the taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes levied against the owner's special inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each relevant taxing unit in proportion to the amount of taxes levied, and the assessor of each relevant taxing unit shall apply the funds received from the collector to the taxes owed by the owner.

(h) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the unpaid amount together with a statement that the owner must remit to the collector the balance of the total tax due.

(i) The collector shall remit to each relevant taxing unit the total amount collected by the collector in deficiency payments. The assessor of each relevant taxing unit shall apply those funds to the taxes owed by the owner. Taxes that are due but not received by the collector and remitted by the collector to each relevant taxing unit on or before January 31 are delinquent.

(j) The collector shall annually distribute among the relevant taxing units, in proportion to the taxes levied by each against the special inventory, funds, if any, that remain in the escrow account after the payment of all property taxes due.

(k) Not later than February 1 of each year, or, in the case of an owner who was not in business on January 1, not later than 30 days after commencement of business, each owner shall file a special inventory declaration with the chief appraiser and file a copy with the county tax assessor-collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the owner conducts business;

(2) each of the owner's general distinguishing numbers, if the owner has a general distinguishing number issued by the Texas Department of Transportation;

(3) a statement that the owner is the owner of a special inventory; and

(4) the market value of the inventory for the current tax year as computed under Section 23.12A(b) of this code.

(l) An owner who fails to file a special inventory declaration required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. A fine collected under this subsection may be used only by the collector to defray the cost of enforcing this section. Each day during which an owner fails to comply with the terms of this subsection is a separate violation.

(m) An owner who fails to file a special inventory tax statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$100. A fine collected under this subsection may be used only by the collector to defray the cost of enforcing this section. Each day during which an owner fails to comply with the terms of this subsection is a separate violation.

(n) An owner who fails to remit the amounts due as required by Subsection (b) of 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. The county attorney shall enforce the terms of this subsection, and a penalty collected under this subsection may be used only by the collector to defray the cost of enforcing this section. A penalty under this subsection is in addition to any penalty that may be due if the owner's taxes are not paid in full by January 31.

SECTION 5. This Act takes effect January 1, 1994. The market value of a special inventory on January 1, 1994, is one-twelfth of total annual sales from the special inventory for tax year 1993.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on April 22, 1993: Yeas 30, Nays 0; the Senate concurred in House amendment on May 25, 1993: Yeas 31; Nays 0; passed the House, with amendment, on May 22, 1993, by a non-record vote.

Approved June 15, 1993.

Effective Jan. 1, 1994.