

TAX CODE CHAPTER 21. TAXABLE SITUS

TAX CODE

TITLE 1. PROPERTY TAX CODE

SUBTITLE D. APPRAISAL AND ASSESSMENT

CHAPTER 21. TAXABLE SITUS

Sec. 21.01. REAL PROPERTY. Real property is taxable by a taxing unit if located in the unit on January 1, except as provided by Chapter 41, Education Code.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1979. Amended by Acts 1993, 73rd Leg., ch. 347, Sec. 4.10, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.74, eff. Sept. 1, 1997.

Sec. 21.02. TANGIBLE PERSONAL PROPERTY GENERALLY.

(a) Except as provided by Subsections (b) and (e) and by Sections 21.021, 21.04, and 21.05, tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains the owner's principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this subsection.

(b) Tangible personal property having taxable situs at the same location as real property detached from a school district and annexed by another school district under Chapter 41, Education Code, is taxable in the tax year in which the detachment and annexation occurs by the same school district by which the real property is taxable in that tax year under Chapter 41, Education

Code. For purposes of this subsection and Chapter 41, Education Code, tangible personal property has taxable situs at the same location as real property detached and annexed under Chapter 41, Education Code, if the detachment and annexation of the real property, had it occurred before January 1 of the tax year, would have changed the taxable situs of the tangible personal property determined as provided by Subsection (a) from the school district from which the real property was detached to the school district to which the real property was annexed.

(c) Tangible personal property has taxable situs in a school district that is the result of a consolidation under Chapter 41, Education Code, in the year in which the consolidation occurs if the property would have had taxable situs in the consolidated district in that year had the consolidation occurred before January 1 of that year.

(d) A motor vehicle does not have taxable situs in a taxing unit under Subsection (a)(1) if, on January 1, the vehicle:

(1) has been located for less than 60 days at a place of business of a person who holds a wholesale motor vehicle auction general distinguishing number issued by the Texas Department of Transportation under Chapter 503, Transportation Code, for that place of business; and

(2) is offered for resale.

(e) In this subsection, "portable drilling rig" includes equipment associated with the drilling rig. A portable drilling rig designed for land-based oil or gas drilling or exploration operations is taxable by each taxing unit in which the rig is located on January 1 if the rig was located in the appraisal district that appraises property for the unit for the preceding 365 consecutive days. If the drilling rig was not located in the appraisal district where it is located on January 1 for the preceding 365 days, it is taxable by each taxing unit in which the owner's principal place of business in this state is located on January 1, unless the owner renders the rig under Chapter 22 to the appraisal district in which the rig is located on January 1, in which event the rig is taxable by each taxing unit in which the rig is located on January 1. If an owner elects to render any portable

drilling rig to the appraisal district in which the rig is located on January 1 when the rig otherwise would be taxable at the owner's principal place of business in this state, all the owner's portable drilling rigs are taxable by the taxing units in which each rig is located on January 1. Notwithstanding any other provision of this subsection, if the owner of a portable drilling rig does not have a place of business in this state, the rig is taxable by each taxing unit in which the rig is located on January 1.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 2, eff. Jan. 1, 1984; Acts 1989, 71st Leg., ch. 534, Sec. 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 347, Sec. 4.11, eff. May 31, 1993; Acts 1997, 75th Leg., ch. 165, Sec. 6.75, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 412, Sec. 8, eff. September 1, 2005.

Acts 2006, 79th Leg., 3rd C.S., Ch. 1, Sec. 1(a), eff. January 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 911, Sec. 1(a), eff. January 1, 2008.

Sec. 21.021. VESSELS AND OTHER WATERCRAFT. (a) A vessel or other watercraft used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is taxable pursuant to Section 21.02 of this code.

(b) A special-purpose vessel or other watercraft not used as an instrumentality of commerce (as defined in Section 21.031(b) of this code) is deemed to be located on January 1 for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located during the year preceding the tax year. If the vessel or watercraft was physically located in more than one taxing unit during the year preceding the tax year, it is deemed to be located for more than a temporary period for purposes of Section 21.02 of this code in the taxing unit in which it was physically located for the longest period during the year preceding the tax year or for 30 days, whichever is longer. If a vessel or other watercraft is not deemed to be located in any taxing unit on January 1 for more than a temporary period pursuant

to this subsection, the property is taxable as provided by Subdivisions (2) through (4) of Section 21.02 of this code.

(c) This section applies solely to a determination of taxable situs and does not apply to a determination of jurisdiction to tax under Section 11.01 of this code.

Added by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 3, eff. Jan. 1, 1984.

Sec. 21.03. INTERSTATE ALLOCATION. (a) If personal property that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the property that fairly reflects its use in this state.

(b) The comptroller shall adopt rules:

(1) identifying the kinds of property subject to this section; and

(2) establishing formulas for calculating the proportion of total market value to be allocated to this state.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 14, eff. Sept. 1, 1991.

Sec. 21.031. ALLOCATION OF TAXABLE VALUE OF VESSELS AND OTHER WATERCRAFT USED OUTSIDE THIS STATE. (a) If a vessel or other watercraft that is taxable by a taxing unit is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the vessel or watercraft that fairly reflects its use in another state or country, in international waters, or beyond the Gulfward boundary of this state.

(b) The appraisal office shall make the allocation as follows:

(1) The allocable portion of the total fair market value of a vessel or other watercraft used as an instrumentality of

commerce that is taxable in this state is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of miles the vessel or watercraft was operated in this state during the year preceding the tax year and the denominator of which is the total number of miles the vessel or watercraft was operated during the year preceding the tax year. For purposes of this section, "vessel or other watercraft used as an instrumentality of commerce" means a vessel or other watercraft that is primarily employed in the transportation of cargo, passengers, or equipment, and that is economically employed when it is moving from point to point as a means of transportation.

(2) The allocable portion of the total fair market value of a special-purpose vessel or other watercraft not used as an instrumentality of commerce is determined by multiplying the total fair market value by a fraction, the numerator of which is the number of days the vessel or watercraft was physically located in this state during the year preceding the tax year and the denominator of which is 365. For purposes of this section, "special-purpose vessel or other watercraft not used as an instrumentality of commerce" means a vessel or other watercraft that:

(A) is designed to be transient and customarily is moved from location to location on a more or less regular basis;

(B) is economically employed when operated in a localized area or in a fixed place; and

(C) is not primarily employed to transport cargo, passengers, and equipment but rather to perform some specialized function or operation not requiring constant movement from point to point.

(c) A vessel or other watercraft used as an instrumentality of commerce or a special-purpose vessel or other watercraft not used as an instrumentality of commerce that is used outside this state and is in this state solely to be converted, repaired, stored, or inspected is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02.

(d) If the allocation provisions of this section do not

fairly reflect the use of a vessel or other watercraft in this state, an alternate allocation formula shall be utilized if the property owner or appraisal office demonstrates that:

(1) the allocation formula specified in this section is arbitrary and unreasonable as applied to the vessel or watercraft; and

(2) the formula or indication of use proposed by the property owner or appraisal office more fairly reflects the vessel or watercraft's use in this state than that specified in this section.

(e) To receive an allocation of value under this section, a property owner must apply for the allocation on a form that substantially complies with the form prescribed by the comptroller. The application must be filed with the chief appraiser for the district in which the property to which the application applies is taxable before the approval of the appraisal records by the appraisal review board as provided by Section 41.12 of this code.

(f) The comptroller shall promulgate forms and may adopt rules consistent with the provisions of this section.

(g) A vessel or other watercraft to be used as an instrumentality of commerce or a special-purpose vessel or other watercraft not to be used as an instrumentality of commerce that is under construction in this state is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02.

(h) Tangible personal property in this state is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Sections 11.01 and 21.02 if the owner demonstrates to the chief appraiser that the owner intends to incorporate the property in or attach the property to an identified vessel or other watercraft described by Subsection (c) or (g).

Added by Acts 1983, 68th Leg., p. 1908, ch. 353, Sec. 3, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 15, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 117, Sec. 1, eff. Jan. 1, 2002.

Sec. 21.04. RAILROAD ROLLING STOCK. (a) A portion of the total market value of railroad rolling stock that is appraised as provided by Subchapter B of Chapter 24 of this code is taxable by each county in which the railroad operates.

(b) The portion of the total market value that is taxable by a county is determined by the provisions of Subchapter B of Chapter 24 of this code.

Acts 1979, 66th Leg., p. 2247, ch. 841, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 9, eff. Aug. 29, 1983.

Sec. 21.05. COMMERCIAL AIRCRAFT. (a) If a commercial aircraft that is taxable by a taxing unit is used both in this state and outside this state, the appraisal office shall allocate to this state the portion of the fair market value of the aircraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the aircraft that fairly reflects its use beyond the boundaries of this state.

(b) The allocable portion of the total fair market value of a commercial aircraft that is taxable in this state is presumed to be the fair market value of the aircraft multiplied by a fraction, the numerator of which is the product of 1.5 and the number of revenue departures by the aircraft from Texas during the year preceding the tax year, and the denominator of which is the greater of (1) 8,760, or (2) the numerator.

(c) During the time in which any commercial aircraft is removed from air transportation service for repair, storage, or inspection, such aircraft is presumed to be in interstate, international, or foreign commerce and not located in this state for longer than a temporary period for purposes of Section 11.01 of this code.

(d) A certificated air carrier shall designate the tax situs of commercial aircraft that land in Texas as either the carrier's principal office in Texas or that Texas airport from which the carrier has the highest number of Texas departures.

(e) For purposes of this subchapter, a commercial aircraft shall mean an instrumentality of air commerce that is:

(1) primarily engaged in the transportation of cargo, passengers, or equipment for others for consideration;

(2) economically employed when it is moving from point to point as a means of transportation; and

(3) operated by a certificated air carrier. A certificated air carrier is one engaged in interstate or intrastate commerce under authority of the U.S. Department of Transportation. Added by Acts 1989, 71st Leg., ch. 534, Sec. 6, eff. Aug. 28, 1989.

Sec. 21.055. BUSINESS AIRCRAFT. (a) If an aircraft is used for a business purpose of the owner, is taxable by a taxing unit, and is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the fair market value of the aircraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the aircraft that fairly reflects its use beyond the boundaries of this state.

(b) The allocable portion of the total fair market value of an aircraft described by Subsection (a) is presumed to be the fair market value of the aircraft multiplied by a fraction, the numerator of which is the number of departures by the aircraft from a location in this state during the year preceding the tax year and the denominator of which is the total number of departures by the aircraft from all locations during the year preceding the tax year.

(c) This section does not apply to a commercial aircraft as defined by Section 21.05.

Added by Acts 1999, 76th Leg., ch. 970, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1481, Sec. 7, eff. Sept. 1, 1999.

Sec. 21.06. INTANGIBLE PROPERTY GENERALLY. (a) Except as provided by Sections 21.07 through 21.09 of this code, intangible property is taxable by a taxing unit if the owner of the property resides in the unit on January 1, unless the property normally is used in this state for business purposes outside the unit. In that



event, the intangible property is taxable by each taxing unit in which the property normally is used for business purposes.

(b) Depositing intangible property with an agency of the state pursuant to a law requiring or authorizing the deposit is not using it for a business purpose at the depository.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Sec. 21.07. INTANGIBLES OF CERTAIN TRANSPORTATION BUSINESSES. (a) A portion of the total intangible value of a transportation business whose intangibles are appraised as provided by Subchapter A of Chapter 24 of this code is taxable by each county in which the business operates.

(b) The portion of the total value that is taxable as provided by Subsection (a) of this section is determined by the provisions of Subchapter A of Chapter 24 of this code.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 4823, ch. 851, Sec. 10, eff. Aug. 29, 1983.

Sec. 21.08. INTANGIBLES OF CERTAIN FINANCIAL INSTITUTIONS. (a) The taxable situs of intangible property owned by an insurance company incorporated under the laws of this state is determined as provided by Article 4.01, Insurance Code.

(b) The taxable situs of intangible property owned by a savings and loan association is determined as provided by Section 89.003, Finance Code.

Acts 1979, 66th Leg., p. 2248, ch. 841, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.89, eff. Sept. 1, 1999.