

TAX CODE
TITLE 1. PROPERTY TAX CODE
SUBTITLE D. APPRAISAL AND ASSESSMENT
CHAPTER 23. APPRAISAL METHODS AND PROCEDURES
(SELECTED SECTIONS)

SUBCHAPTER B. SPECIAL APPRAISAL PROVISIONS

Section 23.12. Inventory

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Section 23.12. Inventory

(a) Except as provided by Sections 23.121, 23.1241, 23.124, and 23.127, 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.

(b) The chief appraiser shall establish procedures for the equitable and uniform appraisal of inventory for taxation. In conjunction with the establishment of the procedures, the chief appraiser shall:

(1) establish, publish, and adhere to one procedure for the determination of the quantity of property held in inventory without regard to the kind, nature, or character of the property comprising the inventory; and

(2) apply the same enforcement, verification, and audit procedures, techniques, and criteria to the discovery, physical examination, or quantification of all inventories without regard to the kind, nature, or character of the property comprising the inventory.

(c) In appraising an inventory, the chief appraiser shall use the information obtained pursuant to Subsection (b) of this section and shall apply generally accepted appraisal techniques in computing the market value as defined in Subsection (a) of this section.

(d) Subsections (b) and (c) of this section apply only to an inventory held for sale, lease, or rental.

(e) A person who owns an inventory to which Subsection (b) of this section applies may bring an action to enjoin the chief appraiser from certifying to a taxing unit any portion of the appraisal roll that lists an inventory for which the chief appraiser has not complied with the requirements of Subsection (b) of this section.

(f) The owner of an inventory other than a dealer's motor vehicle inventory as that term is defined by Section 23.121, a dealer's heavy equipment inventory as that term is defined by Section 23.1241, or a dealer's vessel and outboard motor inventory as that term is defined by Section 23.124, or a retail manufactured housing inventory as that term is defined by Section 23.127 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 following the date the notice of revocation is filed with the chief appraiser.

(g) *Expired pursuant to Acts 1989, 71st Leg., ch. 796, § 16, effective January 1, 1991.*

Section 23.121. Dealer's Motor Vehicle Inventory; Value

(a) In this section:

(1) "Chief appraiser" means the chief appraiser for the appraisal district in which a dealer's motor vehicle inventory is located.

(2) "Collector" means the county tax assessor-collector in the county in which a dealer's motor vehicle inventory is located.

(3) "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, or who is legally recognized as a motor vehicle dealer pursuant to the law of another state and who complies with the terms of Section 152.063(f). The term does not include:

(A) a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code;

(B) an entity that is owned or controlled by a person who holds a manufacturer's license issued under Chapter 2301, Occupations Code;

(C) a dealer whose general distinguishing number issued by the Texas Department of Motor Vehicles under the authority of Chapter 503, Transportation Code, prohibits the dealer from selling a vehicle to any person except a dealer; or

(D) a dealer who:

(i) does not sell motor vehicles described by Section 152.001(3)(A);

(ii) meets either of the following requirements:

(a) the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year are 25 percent or less of the dealer's total revenue from all sources during that period; or

(b) the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period corresponding to the preceding tax year and the dealer estimates that the dealer's total annual sales from the dealer's motor vehicle inventory, less sales to

dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the current tax year will be 25 percent or less of the dealer's total revenue from all sources during that period;

(iii) not later than August 31 of the preceding tax year, filed with the chief appraiser and the collector a declaration on a form prescribed by the comptroller stating that the dealer elected not to be treated as a dealer under this section in the current tax year; and

(iv) renders the dealer's motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser in the manner provided by Chapter 22.

(4) "Dealer's motor vehicle inventory" means all motor vehicles held for sale by a dealer.

(5) "Dealer-financed sale" means the sale of a motor vehicle in which the seller finances the purchase of the vehicle, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement evidencing the sale.

(6) "Declaration" means the dealer's motor vehicle inventory declaration form promulgated by the comptroller as required by this section.

(7) "Fleet transaction" means the sale of five or more motor vehicles from a dealer's motor vehicle inventory to the same person within one calendar year.

(8) "Motor vehicle" means a towable recreational vehicle or a fully self-propelled vehicle with at least two wheels which has as its primary purpose the transport of a person or persons, or property, whether or not intended for use on a public street, road, or highway. The term does not include:

(A) a vehicle with respect to which the certificate of title has been surrendered in exchange for a salvage certificate in the manner provided by law; or

(B) equipment or machinery designed and intended to be used for a specific work-related purpose other than the transporting of a person or property.

(9) "Owner" means a dealer who owes current year vehicle inventory taxes levied against a dealer's motor vehicle inventory.

(10) "Person" means a natural person, corporation, partnership, or other legal entity.

(11) "Sales price" means the total amount of money paid or to be paid for the purchase of a motor vehicle as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title" promulgated by the Texas Department of Motor Vehicles. In a transaction that does not involve the use of that form, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as "sales price" on the Application for Texas Certificate of Title if that form were involved.

(12) "Subsequent sale" means a dealer-financed sale of a motor vehicle that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's motor vehicle inventory in the same calendar year.

(13) "Total annual sales" means the total of the sales price from every sale from a dealer's motor vehicle inventory for a 12-month period.

(14) "Towable recreational vehicle" means a nonmotorized vehicle that is designed for temporary human habitation for recreational, camping, or seasonal use and:

- (A) is titled and registered with the Texas Department of Motor Vehicles through the office of the collector;
- (B) is permanently built on a single chassis;
- (C) contains one or more life support systems; and
- (D) is designed to be towable by a motor vehicle.

(a-1) A dealer who has elected to file the declaration described by Subsection (a)(3)(D)(iii) and to render the dealer's motor vehicle inventory as provided by Subsection (a)(3)(D)(iv) must continue to file the declaration and render the dealer's motor vehicle inventory so long as the dealer meets the requirements of Subsection (a)(3)(D)(ii)(a) or (b).

(b) For the purpose of the computation of property tax, the market value of a dealer's motor vehicle inventory on January 1 is the total annual sales from the dealer's motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, 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 the dealer's motor vehicle inventory of an owner who was not a dealer on January 1 of the prior tax year, the chief appraiser shall estimate the market value of the dealer's motor vehicle inventory. In making the estimate required by this subsection the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's motor vehicle inventory in the prior tax year.

(d) Except for dealer's motor vehicle inventory, personal property held by a dealer is appraised as provided by other sections of this code. In the case of a dealer whose sales from dealer's motor vehicle inventory are made predominately to dealers, the chief appraiser shall appraise the dealer's motor vehicle inventory as provided by Section 23.12 of this code.

(e) A dealer is presumed to be an owner of a dealer's motor vehicle inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the dealer sold a motor vehicle to a person other than a dealer. The presumption created by this subsection is not rebutted by the fact that a dealer has no motor vehicles physically on hand for sale from dealer's motor vehicle inventory on January 1.

(f) The comptroller shall promulgate a form entitled Dealer's Motor Vehicle Inventory Declaration. Except as provided by Section 23.122(l), not later than February 1 of each year, or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. For purposes of this subsection, a dealer is presumed to have commenced business on the date of issuance to the dealer of a dealer's general distinguishing number as provided by Chapter 503, Transportation Code. Notwithstanding the presumption created by this subsection, a chief appraiser may, at his or her sole discretion, designate as the date on which a dealer commenced business a date other than the date of issuance to the dealer of a dealer's general distinguishing number.

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 dealer owner conducts business;
- (2) each of the dealer's general distinguishing numbers issued by the Texas Department of Motor Vehicles;
- (3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and
- (4) the market value of the dealer's motor vehicle inventory for the current tax year as computed under Section 23.121(b).

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a general distinguishing number issued by the Texas Department of Motor Vehicles. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, at the location for which the general distinguishing number has been issued, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

- (1) the document issued by the Texas Department of Motor Vehicles showing the person's general distinguishing number;
- (2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.122 to the person;
- (3) sales records to substantiate information set forth in the dealer's declaration filed by the person.

(h) If a dealer fails to file a declaration as required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, the chief appraiser shall report that fact to the Texas Department of Motor Vehicles and the department shall initiate termination proceedings. The chief appraiser shall include with the report a copy of a declaration, if any, indicating the sale by a dealer of fewer than five motor vehicles in the prior year. A report by a chief appraiser to the Texas Department of Motor Vehicles as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9), Transportation Code, or for refusal by the Texas Department of Motor Vehicles to renew the dealer's general distinguishing number.

(i) A dealer who fails to file a declaration required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$ 500. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(j) A dealer who violates Subsection (g) of this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$ 500. Each day during which a person fails to comply with the terms of Subsection (g) of this section is a separate violation.

(k) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by this section shall forfeit a penalty. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, chief appraiser, or person designated by the chief appraiser shall collect the penalty established by this section in the name of the chief appraiser. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. A penalty forfeited under this subsection is \$ 1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.

Section 23.122. Prepayment of Taxes by Certain Taxpayers

(a) In this section:

(1) "Aggregate tax rate" means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer's motor vehicle inventory.

(2) "Chief appraiser" has the meaning given it in Section 23.121 of this code.

(3) "Collector" has the meaning given it in Section 23.121 of this code.

(4) "Dealer's motor vehicle inventory" has the meaning given it in Section 23.121 of this code.

(5) "Declaration" has the meaning given it in Section 23.121 of this code.

(6) "Owner" has the meaning given it in Section 23.121 of this code.

(7) "Relevant taxing unit" means a taxing unit, including the county, authorized by law to levy property taxes against a dealer's motor vehicle inventory.

(8) "Sales price" has the meaning given it in Section 23.121 of this code.

(9) "Statement" means the Dealer's Motor Vehicle Inventory Tax Statement filed on a form promulgated by the comptroller as required by this section.

(10) "Subsequent sale" has the meaning given it in Section 23.121 of this code.

(11) "Total annual sales" has the meaning given it in Section 23.121 of this code.

(12) "Unit property tax factor" means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer's motor vehicle inventory is located on January 1 of the current year.

(b) Except for a vehicle sold to a dealer, a vehicle included in a fleet transaction, or a vehicle that is the subject of a subsequent sale, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's motor vehicle inventory shall assign a unit property tax to each motor vehicle sold from a dealer's motor vehicle inventory. The unit property tax of each motor vehicle is determined by multiplying the sales price of the motor vehicle by the unit property tax factor. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as required by this section, deposit with the collector a sum equal to the total of unit property tax assigned to all motor vehicles sold from the dealer's motor vehicle inventory in the prior month to which a unit property tax was assigned. 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 dealer's motor vehicle 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. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The owner may not withdraw funds in an escrow account created pursuant to this section.

(e) The comptroller shall promulgate a form entitled a Dealer's Motor Vehicle Inventory Tax Statement. Each month, a dealer shall complete the form regardless of whether a motor vehicle is sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:

- (1) a description of each motor vehicle sold;
- (2) the sales price of the motor vehicle;
- (3) the unit property tax of the motor vehicle if any; and
- (4) the reason no unit property tax is assigned if no unit property tax is assigned.

(f) On or before the 10th day of each month a dealer shall file with the collector the statement covering the sale of each motor vehicle sold by the dealer in the prior month. On or before the 10th day of a month following a month in which a dealer does not sell a motor vehicle, the dealer must file the statement with the collector and indicate that no sales were made in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each motor vehicle sold. A chief appraiser or collector may examine documents held by a dealer as required by this subsection in the same manner, and subject to the same provisions, as are set forth in Section 23.121(g).

(g) The requirements of Subsection (f) of this section apply to all dealers, without regard to whether or not the dealer owes vehicle inventory tax for the current year. A dealer who owes no vehicle inventory tax for the current year because he was not in business on January 1 may neither assign a unit property tax to a motor vehicle sold by the dealer nor remit money with the statement unless pursuant to the terms of a contract as provided by Subsection (l) of this section.

(h) A collector may establish a procedure, voluntary or mandatory, by which the unit property tax of a vehicle is paid and deposited into an owner's escrow account at the time of processing the transfer of title to the motor vehicle.

(i) A relevant taxing unit shall, on its tax bill prepared for the owner of a dealer's motor vehicle inventory, separately itemize the taxes levied against the dealer's motor vehicle inventory. When the tax bill is prepared by a relevant taxing unit for a dealer's motor vehicle inventory, the assessor for the relevant 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 dealer's motor vehicle 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.

(j) 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 amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.

(k) 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 on or before January 31 are delinquent. Not later than February 15 the collector shall distribute to relevant taxing units in the manner set forth in this section all funds collected pursuant to the authority of this section and held in escrow by the collector as provided by this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(l) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year vehicle inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the purchaser has agreed to pay the current year vehicle inventory taxes owed by the selling dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding the terms of Section 23.121 of this code, a person who agrees to pay current year vehicle inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of tax liability.

(m) A dealer who fails to file a 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. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(n) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a statement as required by this section shall forfeit a penalty. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty established by this section in the name of the collector. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. A penalty forfeited under this subsection

is \$ 500 for each month or part of a month in which a statement is not filed or timely filed after it is due.

(o) An owner who fails to remit unit property taxes due as required by 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. Notwithstanding the terms of this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce the terms of this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(p) Fines collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the general fund. Penalties collected pursuant to the authority of this section are the sole property of the collector, may be used by no entity other than the collector, and may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

Section 23.123. Declarations and Statements Confidential

(a) In this section:

(1) "Collector" has the meaning given it in Section 23.122 of this code.

(2) "Chief appraiser" has the meaning given it in Section 23.122 of this code.

(3) "Dealer" has the meaning given it in Section 23.121 of this code.

(4) "Declaration" has the meaning given it in Section 23.122 of this code.

(5) "Owner" has the meaning given it in Section 23.121 of this code.

(6) "Statement" has the meaning given it in Section 23.122 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.121 or Section 23.122 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

(1) in a judicial or administrative proceeding pursuant to a lawful subpoena;

(2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;

(3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;

(4) to a collector or chief appraiser;

(5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122;

- (6) for statistical purposes if in a form that does not identify specific property or a specific property owner;
 - (7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or
 - (8) to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.
- (d) A person who knowingly permits inspection of a declaration or statement by a person not authorized to inspect the declaration or statement or who discloses confidential information contained in the declaration or statement to a person not authorized to receive the information commits an offense. An offense under this subsection is a Class B misdemeanor.