

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 174
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Finance
4/20/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

The “Freeport Amendment” was intended to provide some tax relief by allowing taxing entities to provide an exemption to certain property moving in interstate commerce and remaining in a Texas warehouse for less than 175 days. The “Freeport Amendment” does not provide the desired tax relief because less than 100 of the 2,200 plus taxing entities chose to apply the amendment and because it did not apply to Texas products held in storage in Texas warehouses. C.S.S.B. 174 provides a person an exemption from taxation of the appraised value of that portion of the person’s property that consists of goods-in-transit.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 11B, Tax Code, by adding Section 11.252, as follows:

Sec. 11.252. TANGIBLE PERSONAL PROPERTY IN TRANSIT. (a) Defines “goods-in-transit.”

(b) Provides that a person is entitled to an exemption from taxation of the appraised value of that portion of the person’s property that consists of goods-in-transit.

(c) Provides that the exemption provided by Subsection (b) is subtracted from the market value of the property determined under Section 23.01 or 23.12, as applicable, to determine the taxable value of the property.

(d) Requires the chief appraiser, except as provided by Subsections (f) and (g), to determine the appraised value of goods-in-transit under this subsection. Requires the chief appraiser to determine the percentage of the market value of the inventory or other property owned by the property owner in the preceding calendar year that was contributed by goods-in-transit. Requires the chief appraiser to determine, for the first year to which the exemption applies to a taxing unit, that percentage as if the exemption applied to the preceding year. Requires the chief appraiser to apply that percentage to the market value of the property owner’s inventory or other property for the current year to determine the appraised value of goods-in-transit for the current year.

(e) Requires the chief appraiser, in determining the market value of goods-in-transit that in the preceding year met certain criteria, to exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or out of this state before the expiration of 270 days after the date they were brought into this state by the property owner or acquired by the property owner in this

state. Authorizes the chief appraiser, for component parts held in bulk, to use the average length of time a component part was held by the owner of the component parts during the preceding year at a location in this state that was not owned or under the control of the owner of the component parts in determining whether the component parts were transported to another location in this state or out of this state before the expiration of 270 days.

(f) Requires the chief appraiser to calculate the percentage of the market value described in Subsection (d) for the portion of the year in which the property owner was engaged in transporting goods-in-transit to another location in this state or out of this state, if the property owner was not engaged in transporting goods-in-transit to other locations in this state or out of this state for the entire preceding year.

(g) Requires the chief appraiser to determine, if the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the market value of the goods-in-transit to be exempt by determining, according to the property owner's records and any other available information, the market value of the goods-in-transit owned by the property owner on January 1 of the current year, excluding certain costs.

(h) Authorizes the chief appraiser to require, by written notice delivered to a property owner who claims an exemption under this section, the property owner to provide copies of property records to determine the amount and value of goods-in-transit and whether the location in this state where the goods-in-transit were detained for certain reasons was not owned or under the control of the owner of the goods-in-transit. Provides that the property owner forfeits the right to claim or receive the exemption for that year if the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner.

(i) Defines "petroleum products."

(j) Provides that property that meets the requirements of Section 1-n(a) (relating to exemption to ad valorem taxation), Article VIII, Texas Constitution, constitutes goods-in-transit regardless of whether the person who owns the property on January 1 is the person who transports it to another location in this state or out of this state.

(k) Authorizes the governing body of a taxing unit, in the manner required for official action by the governing body, to provide for the taxation of tangible personal property exempt under Subsection (b) and not exempt under other law. Requires the taxing body, before acting to tax the exempt property, to conduct a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution. Provides that if the governing body of a taxing unit provides for the taxation of the personal property as provided by this subsection, the exemption prescribed by Subsection (b) does not apply to that unit.

(l) Provides that this section expires August 31, 2003.

SECTION 2. Amends Section 11.437(a), Tax Code, to authorize a person who operates a warehouse used primarily for the storage of cotton for transportation to another location in this state or outside of this state to apply for an exemption under Section 11.251 or 11.252 for cotton stored in the warehouse on behalf of all the owners of the cotton. Provides that cotton that is stored in a warehouse covered by an exemption granted under this section and that is transported to another location in this state or outside of this state is presumed to have been transported to another location in this state or outside of this state within the time permitted by Section 1-j or 1-n, Article VIII, Texas Constitution, for cotton to qualify for an exemption under that section. Makes a conforming change.

SECTION 3. Amends Section 22.01(e), Tax Code, to provide that a person is not required, notwithstanding Subsections (a) and (b), to render for taxation cotton that meets certain conditions, including cotton that is stored in a warehouse for which an exemption for cotton has been granted under Section 11.437, rather than 11.436. Makes conforming and nonsubstantive changes.

SECTION 4. Effective date: January 1, 2002, provided that the constitutional amendment proposed by the 77th Legislature, Regular Session, 2001, exempting from ad valorem taxation tangible personal property held at certain locations only temporarily for certain purposes, is approved by the voters. If that proposed constitutional amendment is not approved by the voters, this Act has no effect. Makes application of this Act prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 174 by adding Subsections (k) and (l) to the proposed Section 11.252 Tax Code.