

BILL ANALYSIS

Senate Research Center
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S.B. 733
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Constitution currently exempts household goods not held or used for the production of income from ad valorem taxes. This provision has been interpreted to not apply to a person who rents or leases household goods, even if the lessee is not using the rented property for the production of income. The result of this interpretation is variation in tax treatment between people with and without rent-to-own personal property.

In addition, current law does not provide a consistent methodology between appraisal districts to determine the depreciation rates for the inventory of a merchant. Currently, the inventory of a merchant who leases household goods is subject to ad valorem taxation if that inventory has not been leased to a consumer, and will continue to be subject to taxation under that condition if this constitutional amendment is enacted. However, each taxing district in the state determines the depreciation rate for inventory and the rates differ from district to district. A fair and uniform depreciation rate is needed to prevent confusion and a disparate tax structure.

As proposed, S.B. 733 is the enabling legislation for S.J.R 30. It exempts from ad valorem taxation tangible personal property intended for personal uses within the home that is subject to a rent-to-own contract. Also, S.B. 733 requires the chief appraiser in each taxing district to depreciate tangible personal property indeed for personal use within a home by using the straight line method over a period of three years.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 11.253, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 11, Tax Code, by adding Section 11.253, as follows:

Sec. 11.253. RENT-TO-OWN PROPERTY LEASED FOR PERSONAL USE. (a)
Defines "rent-to-own property."

(b) Entitles the owner (owner) of rent-to-own property that is subject to a rent-to-own contract (contract) to an exemption from taxation of the property if the lessee does not hold the property for the production of income, and the property is used primarily for activities that do not involve the production of income.

(c) Establishes the instance when rent-to-own property, for the purposes of this section, is presumed to be used primarily for activities that do not involve the production of income.

(d) Requires the comptroller of public accounts (comptroller) to establish by rule exemption application requirements and appropriate procedures to determine whether an applicant qualifies for the exemption.

(e) Requires the comptroller to adopt a form in connection with the requirements and procedures under Subsection (d), to be completed by the lessee of rent-to-own property for which the owner may apply for an exemption. Requires the form to

require certain information and to include a notice regarding penalties for a false statement.

(f) Requires the owner to maintain the form completed by the lessee of the property and make the form available for inspection and copying by the chief appraiser (appraiser) of the applicable appraisal district (district) at all reasonable times. Provides that if the owner does not maintain a completed form relating to the property, the owner must render the property for taxation in the applicable rendition statement or property report filed by the owner under Chapter 22 (Rendition and Other Reports), and is prohibited from filing an application for an exemption.

(g) Authorizes a governing body of a municipality by ordinance adopted before January 1, 2008, to provide for the taxation of rent-to-own property otherwise exempted under Subsection (b). Provides that if the governing body of a municipality provides for the taxation of rent-to-own property under this subsection then the exemption provided by Subsection (b) does not apply to the taxation of the property by that municipality, and the owner must render the property for taxation by that municipality in the applicable rendition statement or property report filed by the owner under Chapter 22.

(h) Requires the comptroller by rule to prescribe a property report form (report form) to be completed by the lessor of rent-to-own property describing the rent-to-own property that the lessor owns that is subject to contracts. Requires the report form to require the lessor to list each item of rent-to-own property the lessor owns that is subject to a contract on January 1, to provide a description of each item, and to provide the name of the lessee, the address at which the property is kept, and an indication of whether the lessee has designated the property as not held for the production and not used for the production of income.

(i) Requires the lessor to provide the appraiser with the completed report form. Provides that if the lessor is required to render the property described in the completed report form for taxation, then the lessor may satisfy the rendition requirement by providing the appraiser with the completed report form in lieu of a rendition statement or property report as required by Chapter 22 if the completed report form complies with the requirements of that chapter for a rendition statement or property report.

SECTION 2. Amends Section 22.07, Tax Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Creates Subsection (c-1) from existing text of Subsection (c).

(c-1) Provides that except as otherwise provided by this subsection, if the property owner is a business with 50 employees or less, the property owner may base the estimate of value on the depreciation schedules used for federal income tax purposes. Requires the property owner for property that is described by Section 23.12(g), to base the estimate of value on the depreciation method prescribed by that section.

SECTION 3. Amends Section 23.12, Tax Code, by adding Subsection (g), to require the appraiser, in appraising an inventory of tangible personal property of a type intended for personal use within the home that is owned by a dealer engaged in the business of leasing tangible personal property to customers under contracts, to depreciate the property by using the straight-line method and a recovery period of three years.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: January 1, 2008, contingent upon approval by the voters of the constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes.