

The seal of the Texas Comptroller of Public Accounts is visible in the background. It features a central five-pointed star surrounded by a wreath of olive and oak branches. The words "THE COMPTROLLER" are arched above the star, and "TEXAS" is arched below it.

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Texas Comptroller of Public Accounts

Dealer's Heavy Equipment Special Inventory

Instructions for Filing Forms
and Paying Property Taxes

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By publishing this manual, the Texas Comptroller of Public Accounts is providing general information. The information is provided as a public service and is intended to be used solely for informational purposes. This publication does not address all aspects of law applicable to heavy equipment dealers' special inventory, and the Comptroller's office is not offering legal advice. The information contained in this manual neither constitutes nor serves as a substitute for legal advice. Questions regarding the meaning or interpretation of statutes, legal requirements and other matters should, as appropriate or necessary, be directed to an attorney or other appropriate counsel.

Dealers' heavy equipment inventory laws are found primarily in Tax Code Sections 23.1241, 23.1242 and 23.1243. Protest and judicial review provisions related to refunds on fleet transactions can be found in Tax Code Sections 41.44(a)(4), 41.47(c-1) and 42.01(a)(1)(D).

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Dealer's Heavy Equipment Special Inventory

Texas law provides for the appraisal of dealer's heavy equipment inventory (DHEI) for the purpose of property tax computation based on the sales, leases and rentals of heavy equipment in the prior year.

A heavy equipment dealer does not require a special license for purposes of Tax Code Sections 23.1241, 23.1242 or 23.1243. A heavy equipment dealer is a person engaged in the business of selling, leasing or renting heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union or other finance company. Nor does it include a person who renders heavy equipment inventory in a tax year by filing a rendition statement or property report in accordance with Tax Code Chapter 22.¹

DHEI is all items of heavy equipment that a dealer holds for sale, lease, or rent in this state during a 12-month period.² The definition of heavy equipment is self-propelled, self-powered or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 pounds and is intended to be used for agricultural, construction, industrial, maritime, mining or forestry uses.³

A motor vehicle that is required to be titled according to Transportation Code [Chapter 501](#) or registered according to Transportation Code [Chapter 502](#) is not considered heavy equipment for the purposes of a special inventory tax.⁴ Questions regarding what motor vehicles must be titled or registered should be directed to the Texas Department of Motor Vehicles.

DHEI Appraisal

The market value of a dealer's heavy equipment inventory on Jan. 1 is the total annual sales (less sales to dealers, fleet transactions and subsequent sales) for the 12-month period corresponding to the preceding tax year, divided by 12.⁵ For an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of that same tax year, the sales price is the sum of the sales price plus the total lease and rental payments received for the item in the preceding tax year.⁶

The Texas Supreme Court held that Tax Code Section 21.02 does not control the taxable situs of heavy equipment covered by Tax Code 23.1242. The decision concluded that Tax Code Sections 23.1241 and 23.1242, read together, reflect the Legislature's intent to fix the situs of dealer-held heavy equipment at the location where the dealer maintains its inventory, rather than at the various locations where the equipment might otherwise be physically located. The court determined that the business location and storage yard to which the inventory was assigned was deemed to be the taxable situs for the compressors at issue.⁷

If an owner of a dealer's heavy equipment inventory was not a dealer on Jan. 1 of the preceding tax year, the chief appraiser estimates the market value of the inventory.⁸ These estimates are created using sales data, if any, generated by sales from the dealer's heavy equipment inventory in the preceding tax year.⁹

¹ Tex. Tax Code §23.1241(a)(1)

² Tex. Tax Code §23.1241(a)(2)

³ Tex. Tax Code §23.1241(a)(6)

⁴ Tex. Tax Code §23.1241(a)(6)

⁵ Tex. Tax Code §23.1241(b)

⁶ Tex. Tax Code §23.1241(b-1)

⁷ *EXLP Leasing, LLC v. Galveston Cent. Appraisal Dist.*, No. 15-0683, 2018 Tex. LEXIS 185 (Mar. 2, 2018).

⁸ Tex. Tax Code §23.1241(c)

⁹ Tex. Tax Code §23.1241(c)

Except for dealer's heavy equipment inventory, personal property held by a heavy equipment dealer is appraised as provided by other sections of the Tax Code.¹⁰ If a dealer's sales from the dealer's heavy equipment inventory are made predominately to other dealers, the chief appraiser must appraise the heavy equipment inventory as provided by Tax Code Section 23.12.¹¹

A dealer is presumed to be an owner of a dealer's heavy equipment inventory on Jan. 1 if the dealer sold, leased or rented an item of heavy equipment to a person other than a dealer in the 12-month period ending on Dec. 31 of the preceding year.¹² The presumption is not rebutted by the fact that a dealer has no item of heavy equipment physically on hand for sale on Jan. 1.¹³

When a person acquires a business or assets of a heavy equipment inventory owner that person may, by contract, agree to pay that owner's current year heavy equipment inventory taxes. Both parties must jointly notify the chief appraiser and the collector of the agreement, including the terms of the agreement. This provision does not relieve the selling owner of the tax liability.¹⁴

Documentation Inspection

A chief appraiser may examine a dealer's books and records, including documentation to ascertain the applicability of Tax Code Sections 23.1241 and 23.1242 and sales records to substantiate information in declarations filed by the dealer.¹⁵ A request must:

- be made in writing;
- be delivered personally to the custodian of the records at a location at which the dealer conducts business;
- provide a period of not less than 15 days for the person to respond; and
- state that the person to whom the request is addressed has the right to seek judicial relief from compliance with the request.¹⁶

A chief appraiser or collector may also examine documents related to the monthly tax statement.¹⁷

Confidential Information

Declarations and tax statements are confidential under Tax Code Section 23.123.¹⁸ A declaration or statement filed with a chief appraiser or collector is confidential and not open to public inspection.¹⁹ A declaration or statement and the contained information 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.²⁰ This confidential information may be disclosed in the following ways:

- in a judicial or administrative proceeding pursuant to a lawful subpoena;
- 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;
- to the Comptroller or a Comptroller employee authorized by the Comptroller to receive the information;
- to a collector or chief appraiser;
- to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Tax Code Sections 23.121 or 23.122;
- for statistical purposes if in a form that does not identify specific property or a specific property owner;
- 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
- to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.²¹

It is a Class B misdemeanor offense to knowingly permit inspection of a declaration or statement or to disclose confidential information to an unauthorized person.²²

¹⁰ Tex. Tax Code §23.1241(d)

¹¹ Tex. Tax Code §23.1241(d)

¹² Tex. Tax Code §23.1241(e)

¹³ Tex. Tax Code §23.1241(e)

¹⁴ Tex. Tax Code §23.1242(k)

¹⁵ Tex. Tax Code §23.1241(g) and 23.1242(f)

¹⁶ Tex. Tax Code §§23.1241(g) and 23.1242(f)

¹⁷ Tex. Tax Code §23.1242(f)

¹⁸ Tex. Tax Code §23.1242(p)

¹⁹ Tex. Tax Code §23.123(b)

²⁰ Tex. Tax Code §23.123(b)

²¹ Tex. Tax Code §23.123(c)

²² Tex. Tax Code §23.123(d)

Filing Forms and Paying Property Taxes

Generally, dealers must annually file with the county appraisal district Comptroller Form 50-265, *Dealer's Heavy Equipment Inventory Declaration*, listing the total market value of the inventory sold, leased or rented in the prior year.²³

Dealers must also file monthly with the assessor-collector Comptroller Form 50-266, *Dealer's Heavy Equipment Inventory Tax Statement*, listing heavy equipment sold, leased or rented, from the inventory.²⁴

Step 1 – Dealer Files DHEI Declaration

Dealers must file Comptroller Form 50-265, *Dealer's Heavy Equipment Inventory Declaration*, listing the total value of the inventory sold, leased or rented in the prior year for the inventory in the following manner:²⁵

- file a declaration each year not later than Feb. 1;²⁶
- file the declaration with the county appraisal district in which the business location of the inventory is situated;²⁷
- send a copy of the declaration to the assessor-collector; and²⁸
- if not in business on Jan. 1, file a declaration not later than 30 days of opening the business.²⁹

A person acquiring the business or assets of a heavy equipment inventory owner who agreed, by contract, to pay the selling owner's current year heavy equipment inventory taxes is not required to file a declaration until the year following

the acquisition. This provision does not relieve the selling owner of the tax liability.³⁰

A dealer's declaration must include the following:

- name and business address of each location at which the declarant conducts business;
- a statement that the declarant is the owner of a dealer's heavy equipment inventory; and
- the market value of the declarant's heavy equipment inventory for the tax year as computed by Tax Code Section 23.1241(b).³¹

Penalties

In addition to other penalties provided by law, a dealer becomes liable for a penalty of \$1,000 for each month or portion of a month in which a declaration is not filed.³² A tax lien attaches to the dealer's business personal property to secure payment of the penalty.³³

If there is a disaster that made it effectively impossible for a dealer to comply with filing requirements or an event beyond the control of the dealer that destroys property or records and the declaration is not timely filed, then the dealer may file a written application for the chief appraiser to waive the penalty within 30 days after the date the declaration must be filed.³⁴ The dealer must otherwise be in compliance Tax Code Chapter 23 for the chief appraiser to waive the penalty.³⁵

Step 2 – Dealer Files DHEI Tax Statement(s)

Each month, a dealer must file with the assessor-collector the original completed monthly tax statement listing heavy

²³ Tex. Tax Code §23.1241

²⁴ Tex. Tax Code §23.1242

²⁵ Tex. Tax Code §23.1241(f)

²⁶ Tex. Tax Code §23.1241(f)

²⁷ *EXLP Leasing, LLC v. Galveston Cent. Appraisal Dist.*, No. 15-0683, 2018 Tex. LEXIS 185 (Mar. 2, 2018) and Tex. Tax Code §§23.1241 and 23.1242

²⁸ Tex. Tax Code §23.1241(f)

²⁹ Tex. Tax Code §23.1241(f)

³⁰ Tex. Tax Code §23.1242(k)

³¹ Tex. Tax Code §23.1241(f)

³² Tex. Tax Code §23.1241(j)

³³ Tex. Tax Code §23.1241(j)

³⁴ Tex. Tax Code §23.129

³⁵ Tex. Tax Code §23.129

equipment sold, leased or rented and also generally must file a monthly tax payment.³⁶ A dealer must file a statement for the business location of the inventory.³⁷

Dealers must file statements meeting the following schedule and criteria:

- file 12 statements per year;³⁸
- file by the 20th of each month following the reporting month (for example, file January inventory tax statement by Feb. 20);³⁹
- file the originals with the assessor-collector and copies with the chief appraiser.⁴⁰
- file a statement indicating no sales, leases or rentals if the dealer does not sell, lease or rent heavy equipment during the month;⁴¹
- if not in business on Jan. 1, file for each month in business;⁴² and
- if not in business on Jan. 1, do not assign a unit property tax to sold items or remit money with the statement.⁴³

The prohibition on assigning a unit property tax or remitting money with the statement if the dealer was not in business on Jan. 1 does not apply to person who acquired a business and is complying with a contract to pay a selling owner's current year heavy equipment inventory taxes.⁴⁴ This provision does not relieve the selling owner of the tax liability.⁴⁵

A dealer must use Comptroller Form 50-266, *Dealer Heavy Equipment Inventory Tax Statement*, and include:

- a description of each item of heavy equipment sold, leased or rented including any unique identification or serial number affixed by the manufacturer;
- the sales price of or lease or rental payment received for the item of heavy equipment, as applicable;

- the unit property tax of the item of heavy equipment, if any; and
- the reason no unit property tax is assigned if no unit property tax is assigned.⁴⁶

Dealers should retain any documentation relating to the disposition of each item of heavy equipment sold.⁴⁷

Penalties

In addition to other penalties provided by law, a dealer who fails to file or timely file a statement must forfeit a penalty of \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due.⁴⁸ A tax lien attaches to the dealer's business personal property to secure payment of the penalty.⁴⁹

If there is a disaster that made it effectively impossible for a dealer to comply with filing requirements or an event beyond the control of the dealer that destroys property or records and the monthly statement is not timely filed, then the dealer may file a written application for the collector to waive the penalty within 30 days after the date the statement must be filed.⁵⁰ The dealer must otherwise be in compliance Tax Code Chapter 23 for the collector to waive the penalty.⁵¹

Step 3 – Dealer Prepays Taxes

Along with the inventory tax statement filed with the collector's office, owners must deposit the total unit property tax assigned to all items of heavy equipment sold, leased or rented in the preceding month.⁵² This money is deposited into an escrow account for the prepayment of property taxes.⁵³ The owner may not withdraw funds in an escrow account, except as provided by Tax Code Section 23.1243.⁵⁴

Unit property tax factor

Call the assessor-collector or appraisal district for the unit property tax factor. This factor is one-twelfth of the prior

³⁶ Tex. Tax Code §23.1242(b), (e) and (f)

³⁷ *EXLP Leasing, LLC v. Galveston Cent. Appraisal Dist.*, No. 15-0683, 2018 Tex. LEXIS 185 (Mar. 2, 2018) and Tex. Tax Code §§23.1241 and 23.1242

³⁸ Tex. Tax Code §23.1242(f)

³⁹ Tex. Tax Code §23.1242(f)

⁴⁰ Tex. Tax Code §23.1242(f)

⁴¹ Tex. Tax Code §23.1242(f)

⁴² Tex. Tax Code §23.1242(g)

⁴³ Tex. Tax Code §23.1242(g)

⁴⁴ Tex. Tax Code §23.1242(b), (g) and (k)

⁴⁵ Tex. Tax Code §23.1242(k)

⁴⁶ Tex. Tax Code §23.1242(e)

⁴⁷ Tex. Tax Code §23.1242(f)

⁴⁸ Tex. Tax Code §23.1242(m)

⁴⁹ Tex. Tax Code §23.1242(m)

⁵⁰ Tex. Tax Code §23.129

⁵¹ Tex. Tax Code §23.129

⁵² Tex. Tax Code §23.1242(b)

⁵³ Tex. Tax Code §23.1242(b)

⁵⁴ Tex. Tax Code §23.1242(d)

year's aggregate property tax rate at the location where the dealer's heavy equipment inventory is located on Jan. 1 of the current year.⁵⁵ Each property is taxed by a county and by a school district, but may also be taxed by a city and special districts (such as a junior college and/or hospital district, depending on location).

Calculate the unit property tax

The unit property tax is the product of multiplying the unit property tax factor by the sales price of the item or the monthly lease or rental payment received for the item.⁵⁶

Assign a unit property tax

Except for dealer sales, fleet transactions and subsequent sales, an owner must assign a unit property tax to each item of heavy equipment sold from a dealer's heavy equipment inventory. An owner must also assign a unit property tax to each item of heavy equipment leased or rented.⁵⁷ On a lease or rental, the owner collects the unit property tax from the lessee or renter at the time the lessee or renter makes a payment.⁵⁸ The owner must state the amount of the assigned unit property tax as a separate line item on an invoice.⁵⁹

If a dealer is not in business on Jan. 1, the dealer may not assign a unit property tax to sold items or remit money with the statement unless to comply with contract to pay a selling owner's current year heavy equipment inventory taxes.⁶⁰

Penalties

In addition to other penalties provided by law, an owner who fails to remit unit property tax due must pay a penalty of 5 percent of the amount due.⁶¹ If the amount due is not paid within 10 days after the due date, the owner must pay an additional 5 percent of the amount due.⁶² Unit property taxes paid on or before Jan. 31 of the year following the date on which they are due are not delinquent.⁶³

⁵⁵ Tex. Tax Code §23.1242(a)(4)

⁵⁶ Tex. Tax Code §23.1242(b)

⁵⁷ Tex. Tax Code §23.1242(b)

⁵⁸ Tex. Tax Code §23.1242(b)

⁵⁹ Tex. Tax Code §23.1242(b)

⁶⁰ Tex. Tax Code §23.1242(b), (g) and (k)

⁶¹ Tex. Tax Code §23.1242(n)

⁶² Tex. Tax Code §23.1242(n)

⁶³ Tex. Tax Code §23.1242(n)

Step 4 – Tax Collector Pays Inventory Taxes from Dealer's Escrow Account

The current year's tax bills received in October will be based on the market value of the inventory and the current year's tax rates. The inventory's market value is an average of the monthly inventory sales, leases and rentals from the preceding year.⁶⁴

The owner will receive annual property tax bills and taxing unit assessor(s) send a copy of the owner's heavy equipment inventory tax bill to the collector.⁶⁵ On behalf of the owner, the assessor-collector pays the annual inventory taxes from the dealer's escrow account and bills the owner for any additional amount due.⁶⁶ Collector pays the inventory tax bill from the escrow account to the taxing units.⁶⁷

The owner will receive a tax receipt for payment and any additional tax bill from the assessor-collector for any deficiency in escrow account.⁶⁸ Taxes that are due but not received by the collector on or before Jan. 30 are delinquent.⁶⁹

Collectors must distribute to taxing units all funds collected and held in the escrow account by Feb. 15.⁷⁰ An owner may not withdraw funds from the escrow account.⁷¹ A dealer may write to the chief appraiser to apply for a refund of taxes paid on a sale that is a fleet transaction.⁷²

Fleet Transaction Refunds

A dealer may apply to the chief appraiser for a refund of the unit property tax paid on a fleet transaction sale.⁷³ The chief appraiser must determine whether to approve or deny,

⁶⁴ Tex. Tax Code §23.1242(b)

⁶⁵ Tex. Tax Code §23.1242(h)

⁶⁶ Tex. Tax Code §23.1242(h) and (i)

⁶⁷ Tex. Tax Code §23.1242(h)

⁶⁸ Tex. Tax Code §23.1242(i)

⁶⁹ Tex. Tax Code §23.1242(j)

⁷⁰ Tex. Tax Code §23.1242(j)

⁷¹ Tex. Tax Code §23.1242(d). See also Tex. Att'y Gen. Op. JC-0286 (2000) which provides that a heavy equipment dealer who mistakenly prepays inventory taxes is not entitled to a refund unless entitled under Tax Code §31.11 or can show the payment was the result of fraud, mutual mistake of fact or under duress.

⁷² Tex. Tax Code §§23.1242(d) and 23.1243

⁷³ Tex. Tax Code §23.1243(b)

wholly or partly, the requested refund.⁷⁴ A written notice of the chief appraiser's determination must be delivered to both to the collector maintaining the escrow account and to the applicant.⁷⁵ The notice must state the amount, if any, to be refunded.⁷⁶ An owner may protest the determination if they file a protest not later than 30 days after the date that the determination notice is delivered to the owner.⁷⁷

If a collector receives a notice stating a refund amount, the collector must pay the amount to the dealer not later than the 45th day after the collector receives the notice.⁷⁸ The dealer must use the dealer's best efforts to pay the refund to the customer who paid the tax for which the refund was requested not later than the 30th after the date the dealer receives the refund.⁷⁹

Additional Information

- For specific questions regarding the declaration form, call the applicable local county appraisal district.
- For specific questions regarding the monthly tax statement form, call the applicable local assessor-collector office.
- For specific questions regarding what motor vehicles are excluded from the definition of heavy equipment inventory because the vehicle must be titled or registered under Transportation Code Chapter 501 and 502, respectively, call the Texas Department of Motor Vehicles; and
- For general questions on the declaration or monthly tax statement, contact the Comptroller's Property Tax Assistance Division at 800-252-9121 (press 3) or ptad.cpa@cpa.texas.gov.

⁷⁴ Tex. Tax Code §23.1243(c)

⁷⁵ Tex. Tax Code §23.1243(c)

⁷⁶ Tex. Tax Code §23.1243(c)

⁷⁷ Tex. Tax Code §41.44(a)(4)

⁷⁸ Tex. Tax Code §23.1243(d)

⁷⁹ Tex. Tax Code §23.1243(d)

Frequently Asked Questions

1. Is sales tax included in the sales price of heavy equipment or in the monthly lease or rental payment, as applicable?

This question involves a very fact-based inquiry. As an initial matter, any given piece of equipment may or may not be subject to sales tax. If sales tax is collected, one may question whether such tax is included in the various provisions of Tax Code Sections 23.1241 and 23.1242 including, but not limited to, the definition of sales price and provisions for the calculation of unit property tax. These are questions involving interpretation of law that should be directed to an attorney.

2. Is every sale, lease and rental of heavy equipment subject to the special inventory tax?

The special inventory law excludes three types of transactions made from a dealer's heavy equipment inventory from the definition of market value and the requirements to assign a unit property tax:

1. sales to dealers;
2. fleet transactions; and
3. subsequent sale(s).⁸⁰

Sales to dealers, fleet transactions and subsequent sales, however, must be reported on the monthly tax statement.⁸¹

3. If I only lease or rent heavy equipment, am I considered a dealer of heavy equipment inventory?

Yes. The definition of dealer is a person engaged in the business in this state of selling, leasing or renting heavy equipment. A dealer does not include a bank, savings bank, savings and loan association, credit union or other finance company; nor does it include a person who

renders heavy equipment inventory in that tax year by filing a rendition statement or property report in accordance with Tax Code Chapter 22.⁸²

4. Last year, I rented out several pieces of heavy equipment, but closed my business in December. Am I considered a dealer of heavy equipment for the next tax year?

A dealer means a person engaged in the business in this state of selling, leasing or renting heavy equipment. The term does not include a person who renders heavy equipment inventory in that tax year by filing a rendition statement or property report in accordance with Tax Code Chapter 22.⁸³

A dealer is presumed to be an owner of heavy equipment inventory on Jan. 1 if the dealer sold, leased or rented an item of heavy equipment to a person other than a dealer in the 12-month period ending on Dec. 31 of the preceding year.⁸⁴ This presumption is not rebutted by the fact the dealer does not physically have an item of heavy equipment on hand for sale from the dealer's heavy equipment inventory on Jan. 1.⁸⁵

5. I opened my heavy equipment dealership in the middle of this year, do I have to file monthly tax statements for the current year?

Yes. A dealer who owes no heavy equipment inventory tax for the current year because the dealer was not in business on Jan. 1 must file a statement for each month that the dealer is in business.⁸⁶ The dealer also must file a declaration within 30 days after the business opens.⁸⁷

⁸⁰ Tex. Tax Code §§23.1241(b) and 23.1242(b)

⁸¹ Tex. Tax Code §23.1242(e)(1)

⁸² Tex. Tax Code §23.1241(a)(1)

⁸³ Tex. Tax Code §23.1241(a)(1)

⁸⁴ Tex. Tax Code §23.1241(e)

⁸⁵ Tex. Tax Code §23.1241(e)

⁸⁶ Tex. Tax Code §23.1242(g)(1)

⁸⁷ Tex. Tax Code §23.1241(f)

6. What can happen if I do not file or timely file a declaration for my heavy equipment inventory?

In addition to other penalties provided by law, a dealer who fails to file or timely file a required declaration must forfeit a penalty of \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.⁸⁸ A tax lien attaches to the dealer's business personal property to secure payment of the penalty.⁸⁹

7. What can happen if I do not file or timely file a monthly statement for my heavy equipment inventory? What happens if I do not remit due unit property taxes?

In addition to other penalties provided by law, a dealer who fails to file or timely file a statement must forfeit a penalty of \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due.⁹⁰ A tax lien attaches to the dealer's business personal property to secure payment of the penalty.⁹¹ In addition to other penalties provided by law, an owner who fails to remit unit property tax due must pay a penalty of 5 percent of the amount due.⁹² If the amount due is not paid within 10 days after the due date, the owner must pay an additional 5 percent of the amount due.⁹³ Unit property taxes paid on or before Jan. 31 of the year following the date on which they are due are not delinquent.⁹⁴

8. How much does an item have to weigh before it qualifies as heavy equipment?

Dealers' heavy equipment inventory must weigh at least 1,500 pounds.⁹⁵

9. Are semitrailers considered heavy equipment for purposes of special inventory?

A semitrailer would not be considered heavy equipment for purposes of special inventory if the semitrailer must be titled as a motor vehicle under Transportation Code

Chapter 501 or be registered pursuant to Transportation Code Chapter 502.⁹⁶ A motor vehicle is not included in the definition of heavy equipment inventory if it is required to be titled according to Transportation Code **Chapter 501** or registered according to Transportation Code **Chapter 502**.

Questions regarding what motor vehicles must be titled or registered should be directed to the Texas Department of Motor Vehicles.

10. When do I collect the inventory tax on a leased or rented item of heavy equipment?

If a transaction is a lease or rental, the owner must collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or rental.⁹⁷

11. What if I sell, lease, or rent to an individual who is out-of-state or to a governmental entity? Do I include that transaction in the monthly statement?

The Tax Code does not exclude sales, leases or rentals to out-of-state individuals or governmental entities for purposes of declarations or monthly statements under Tax Code Sections 23.1241, 23.1242 and 23.1243.

See question 2 for exclusions.

12. If a renter or lessee fails to pay the lease or rental payments, do I still have to prepay the inventory tax for that lease or rental?

The owner must deposit with the assessor-collector the total amount of unit property tax assigned to all items sold, leased or rented in the preceding month.⁹⁸ The assigned unit property tax is determined by multiplying the unit property tax factor by the sales price of the item or the monthly lease or rental payment received for an item.⁹⁹ If a unit property tax has been assigned, then that amount must be remitted to the collector.¹⁰⁰ Whether an

⁸⁸ Tex. Tax Code §23.1241(j)

⁸⁹ Tex. Tax Code §23.1241(j)

⁹⁰ Tex. Tax Code §23.1242(m)

⁹¹ Tex. Tax Code §23.1242(m)

⁹² Tex. Tax Code §23.1242(n)

⁹³ Tex. Tax Code §23.1242(n)

⁹⁴ Tex. Tax Code §23.1242(n)

⁹⁵ Tex. Tax Code §23.1241(a)(6)

⁹⁶ Tex. Tax Code §23.1241(a)(6)

⁹⁷ Tex. Tax Code §23.1242(b)

⁹⁸ Tex. Tax Code §23.1242(b)

⁹⁹ Tex. Tax Code §23.1242(b)

¹⁰⁰ Tex. Tax Code §23.1242(b)

owner is required to prepay unit property tax that is not remitted by a lessee or renter involves interpretation of law that should be directed to an attorney.

13. When I sell a piece of heavy equipment that has been rented or leased, how is the market value calculated for tax purposes?

For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory, the sales price of an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of the same tax year is considered to be the sum of the sales price of the item plus the total lease and rental payments received for the item in the preceding tax year.¹⁰¹

14. If I have excess funds in my escrow account after my tax bill is paid do I get a refund?

The only provision in the Tax Code relating to refunds pertains to fleet transactions in Tax Code Section 23.1243.

15. If I apply to the chief appraiser for a refund for prepayment of a fleet sale and I am denied, can I appeal the determination?

A property owner may protest a chief appraiser's determination of eligibility for a refund under Tax Code Section 23.1243 to the appraisal review board not later than the 30th day after the date the chief appraiser's refund eligibility is delivered to the property owner.¹⁰² An ARB determination on the eligibility of a refund may be appealed in district court.¹⁰³

16. If a dealer has two or more locations in the same county but in different taxing units may the dealer count all transactions in that county for purposes of calculating fleet transactions?

No. Each business location of the inventory (therefore each taxing unit) is treated separately for this purpose.¹⁰⁴

¹⁰¹ Tex. Tax Code §23.1241(b-1)

¹⁰² Tex. Tax Code §41.44(a)(4)

¹⁰³ Tex. Tax Code §42.01

¹⁰⁴ *EXLP Leasing, LLC v. Galveston Cent. Appraisal Dist.*, No. 15-0683, 2018 Tex. LEXIS 185 (Mar. 2, 2018) and Tex. Tax Code §§6.01, 6.02, 21.02, 25.01(a), 23.1241, 23.1242 and 26.01(a).

Definitions

The following are terms related to dealer's heavy equipment.

Statutory Definitions

The terms below are defined in Tax Code Sections 23.1241(a) and 23.1242(a) except as otherwise cited.

Aggregate tax rate – the combined tax rates of all appropriate taxing units authorized by law to levy property taxes against a dealer's heavy equipment inventory.¹⁰⁵

Dealer – a person engaged in the business in this state of selling, leasing or renting heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union or other finance company. In addition, for purposes of taxation of a person's inventory of heavy equipment in a tax year, the term does not include a person who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with Tax Code Chapter 22.¹⁰⁶

Dealer's heavy equipment inventory – all items of heavy equipment that a dealer holds for sale, lease or rent in this state during a 12-month period.¹⁰⁷

Dealer-financed sale – the sale at retail of an item of heavy equipment in which the dealer finances the purchase of the item, is the sole lender in the transaction and retains exclusively the right to enforce the terms of the agreement that evidences the sale.¹⁰⁸

Declaration – a dealer's heavy equipment inventory declaration form adopted by the Comptroller's office.¹⁰⁹

Fleet transaction – the sale of five or more items of heavy equipment from a dealer's heavy equipment inventory to the same person in one calendar year.¹¹⁰

Heavy equipment – self-propelled, self-powered or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 pounds and is intended to be used for agricultural, construction, industrial, maritime, mining or forestry uses. The term does not include a motor vehicle that is required to be titled according to Transportation Code Chapter 501 or registered according to Transportation Code Chapter 502.¹¹¹

Motor vehicle – Transportation Code Section 501.002(17) defines a motor vehicle is:

- any motor driven or propelled vehicle required to be registered under state law;
- a trailer or semitrailer (other than manufactured housing) with a gross vehicle weight that exceeds 4,000 pounds;
- a travel trailer;
- an all-terrain vehicle or recreational off-highway vehicle designed by the manufacturer for off-highway use that is not required to be registered under state law; or
- a motorcycle, motor-driven cycle or moped that is not required to be registered under state law.

Transportation Code Section 502.002 provides that the definition of motor vehicle is a vehicle that is self-propelled.

Questions regarding what motor vehicles must be titled or registered should be directed to the Texas Department of Motor Vehicles.

Statement – the dealer's heavy equipment inventory tax statement filed on a form adopted by the Comptroller's office.¹¹²

¹⁰⁵ Tex. Tax Code §23.1242(a)(1)

¹⁰⁶ Tex. Tax Code §23.1241(a)(1)

¹⁰⁷ Tex. Tax Code §23.1241(a)(2)

¹⁰⁸ Tex. Tax Code §23.1241(a)(3)

¹⁰⁹ Tex. Tax Code §23.1241(a)(4)

¹¹⁰ Tex. Tax Code §23.1241(a)(5)

¹¹¹ Tex. Tax Code §23.1241(a)(6)

¹¹² Tex. Tax Code §23.1242(a)(3)

Sales price – the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or for a lease or rental, the total amount of the lease or rental payments.¹¹³

Subsequent sale – a dealer-financed sale of an item of heavy equipment that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer’s heavy equipment inventory in the same calendar year. The term does not include a rental or lease with an unexercised purchase option or without a purchase option.¹¹⁴

Total annual sales – the total of the sales price for each sale from a dealer’s heavy equipment inventory in a 12-month period; and lease and rental payments received for each lease or rental of heavy equipment inventory in a 12-month period.¹¹⁵

Unit property tax factor – a number equal to one-twelfth of the preceding year’s aggregate ad valorem tax rate at the location where a dealer’s heavy equipment inventory is located on Jan. 1 of the current year.¹¹⁶

Additional Definitions

Sale – Merriam-Webster’s Dictionary defines sale as “the act of selling; specifically: the transfer of ownership of and title to property from one person to another for a price.”¹¹⁷

Sale – Black Law’s Dictionary defines sale as “a contract between two parties, called, respectively, the seller (or vendor) and the buyer (or purchaser), by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and the possession of property. Transfer of property for consideration either in money or its equivalent.”¹¹⁸

¹¹³ Tex. Tax Code §23.1241(a)(7)

¹¹⁴ Tex. Tax Code §23.1241(a)(8)

¹¹⁵ Tex. Tax Code §23.1241(a)(9)

¹¹⁶ Tex. Tax Code §23.1242(a)(4)

¹¹⁷ Merriam-Webster’s Dictionary Online. “Sale,” www.merriam-webster.com/dictionary/sale (Last visited Oct. 16, 2017)

¹¹⁸ Black’s Laws Dictionary 1200 (5th ed. 1979)

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