



**CITY OF PLANO  
COUNCIL AGENDA ITEM**

<b>CITY SECRETARY'S USE ONLY</b>				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		11/14/11		
Department:		Budget		
Department Head		Karen Rhodes		
Agenda Coordinator (include phone #): <b>Janette Weedon (x7146)</b>				
<b>CAPTION</b>				
A public hearing and consideration of an ordinance of the City of Plano allowing the City of Plano to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253, and providing a severability clause, repealer clause, and an effective date.				
<b>FINANCIAL SUMMARY</b>				
<input type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input checked="" type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: <b>2011-12</b>	<b>Prior Year (CIP Only)</b>	<b>Current Year</b>	<b>Future Years</b>	<b>TOTALS</b>
Budget	0	0	0	<b>0</b>
Encumbered/Expended Amount	0	0	0	<b>0</b>
This Item	0	0	0	<b>0</b>
BALANCE	0	0	0	<b>0</b>
<b>FUND(S):</b>				
<b>COMMENTS:</b> Any revenue received as a result of this Ordinance is undeterminable at this time.				
STRATEGIC PLAN GOAL: Amending the Ordinance to tax tangible personal property in transit relates to the City's Goals of Partnering for Community Benefit and Financially Strong City with Service Excellence.				
<b>SUMMARY OF ITEM</b>				
Senate Bill 1 extends an ad valorem tax exemption to "goods-in-transit" that are stored in a public warehouse owned by someone other than the owner of the goods. The City Council must conduct a public hearing "opting out" of the legislation.				
List of Supporting Documents: Letter from Collin County Central Appraisal District & Legal Counsel			Other Departments, Boards, Commissions or Agencies	



September 16, 2011

TO: All Taxing Entities

*Note: original letter mailed via first class mail*

FROM: Bo Daffin, Chief Appraiser

RE: New Exemption of "Goods-In-Transit" – Local Option to Tax for 2012

Dear Taxing Entity,

During the 2011 special session, the legislature revised and narrowed the goods-in-transit exemption under 11.253 of the Property Tax Code. It is virtually impossible to know how the changes in the law might affect Collin county taxing entities, since we have never had a goods-in-transit exemption application filed from the original 2008 implementation of the exemption.

The primary purpose of this letter is fourfold:

1. To advise all entities wishing to tax these goods for 2012 that they must take action to tax after October 1, 2011 and before December 31, 2011, and furnish a copy of the official action to tax to CCAD. If an entity takes no action to tax during the prescribed timeframe the goods will be subject to exemption for 2012.
2. Whatever you selected, to tax or exemption during the first round back in 2007 (for 2008 tax year), has zero effect on what an entity can/must do for 2012.
3. To advise all entities wishing to tax these goods that you must hold a public hearing on the question of whether to tax them for 2012 or let them become exempt. Per our legal counsel, the legislature has prescribed no special procedures for this hearing, therefore it may be held at a meeting of your governing body called for other purposes.
4. To provide you with the letter and sample forms provided by our legal counsel, to assist you with this process.

I hope the enclosed packet from our legal counsel assists you in the process. A copy of this letter and enclosed packet will be posted to our entity portal, at <https://entity.collincad.org>

Please contact either Robert Waldrop at 469.742.9323 [robert.waldrop@cadcollin.org](mailto:robert.waldrop@cadcollin.org); or me at 469.742.9223 [bo.daffin@cadcollin.org](mailto:bo.daffin@cadcollin.org); if you have questions or need additional information.

Best Regards,

Bo Daffin  
Chief Appraiser

Attachments

[www.collincad.org](http://www.collincad.org)



Howard Perdue  
(1933-2005)  
Larry Brandon  
James O. Collins  
Terry Ann White  
R. Bruce Medley  
Robert Mott  
Kevin Brennen  
Harold Lerew  
Jeanmarie Baer  
David A. Ellison  
Laura J. Monroe  
Tab Beall  
B. Lynn Stavinoha  
Michael J. Darlow  
Joseph T. Longoria  
David S. Crawford  
Donald B. Roseman  
Carl O. Sandin  
Jason Bailey  
Owen M. Sonik  
David Hudson  
R. Gregory East  
Elizabeth Banda Calvo  
Yolanda M. Humphrey  
John T. Banks  
Sandra Griffin  
Sergio E. Garcia  
E. Stephen Lee

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August 23, 2011

D'Layne Peebles Carter  
Hiram A. Gutierrez  
Michael J. Siwierka  
Thelma Banduch  
Christopher S. Jackson  
Eboney Cobb  
Charles E. Brady  
Adam J. Walker  
Alesha L. Williams  
Leslie M. Schkade  
Carol Barton  
D'Arwyn Daniels  
Galen Gatten, Jr.  
Pamela Gleason  
E. Derick Mendoza  
W. Tracy Crites, Jr.  
Michael W. Balcezak  
Veronica Leal Vasquez  
Guy A. "Tony" Fidelie, Jr.  
Jonathan Garza  
Otilia R. Gonzales  
Elizabeth A. Wiehle  
George Dowlen\*  
Terry G. Wiseman\*  
C. David Fielder\*  
Gregg M. McLaughlin\*  
\*Retired

## Clients of the Firm

RE: New Exemption of "Goods-in-Transit" — Local Option to Tax

Dear Client:

In the 2007 session, the Texas Legislature passed Tax Code Section 11.253 or the "Goods-in-Transit" exemption as it is more commonly known. This legislation implemented a constitutional amendment that was passed several years before. This legislation was very similar to the "Freeport exemption" passed many years ago, but it had a potentially larger impact as time passed. At that time, we wrote you and advised you of your option to tax "goods-in-transit" and most of you did.

During the 2011 special session, the legislature acted to significantly limit the applicability of section 11.253. This exemption now applies only to goods that are stored in a public warehouse owned by someone other than the owner of the goods. The law no longer exempts goods that are in a location for assembly, manufacturing, fabrication or processing, as was the case under the law passed in 2007. The legislature revised and narrowed the law to address the author's issue: competition between Texas and New Mexico warehouse facilities. New Mexico does not tax such goods at all, so New Mexico warehouse owners had a competitive advantage.

This update to the law requires that you act within a narrow window of time if you want to continue to tax these goods for 2012. The update provides that **you must take action after October 1, 2011 but before December 31, 2011**, if you want to continue to tax such goods in 2012. You may later elect to tax such goods for subsequent years if you fail to act this year.

## **What is Exempted?**

This law exempts goods, principally inventory, that are stored under a contract of bailment by a public warehouse operator at a public warehouse facility, that is in no way owned or controlled by the owner of the goods, provided such property is moved to another location in this state or out of state within 175 days after the goods were acquired in Texas or imported into Texas. The movement requirement could be satisfied by simply moving the goods to another warehouse across the street.

Certain specific types of goods are presently excluded from this exemption: oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory. Petroleum products are defined to be only the immediate derivatives of oil and natural gas, so some goods that you might think of as petroleum products may actually be exempted from taxation by this new law.

## **What is the Impact on Your Tax Base?**

At present, this new law will probably have a limited impact because most goods are kept in facilities owned by the owners of the goods. However, this may change. Some owners of goods that presently store them may move their goods into a public warehouse in order to obtain the tax exemption. It should be noted, however, that this pared down exemption has much less potential to reduce your tax base than the original statute.

## **What Can You Do?**

The governing body of each taxing unit in the state may act to tax these goods in the year following the year in which the governing body takes action. These goods will first become exempt in 2012. So if you wish to continue to tax these types of goods in 2012, you must act to tax the goods after October 1, 2011 and before December 31, 2011. You must inform all the appraisal districts in which your local government is located that you have acted to tax these goods. A copy of a resolution, order, or ordinance is the best way to document your decision to your appraisal district.

Before you act to tax these goods, you must hold a public hearing on the question of whether to tax them or whether to let them become exempt. The legislature has prescribed no special procedures for this hearing, so it may be held at a meeting of the governing body called for other purposes. The item must be listed on the agenda for that meeting as an action item in compliance with the Open Meetings Act, but there is no additional public notice required.

The legislature required that each taxing unit act in the manner required for official action by the governing body of the taxing unit. For counties, this means that action should be taken by an order of the commissioner's court. For cities, this means that action should be taken by an ordinance. For school districts and other taxing units, this means that action should be taken by resolution. A sample order, ordinance and resolution form is attached to this letter.

## Special Note for School Districts

The wealth lost to this exemption will be deducted from the taxable wealth of the school district as determined by the Comptroller for purposes of calculating state aid. Until the hold harmless provisions of House Bill 1 are removed, this will have little impact on the amount of state aid your school district receives. At present, the Comptroller's wealth estimate affects only the additional four cents that a school district may impose and the amount of certain types of facilities aid the district receives from the state (existing debt allotment and instructional facilities allotment).

We hope that this letter and the attached forms will help you make an informed decision on behalf of the taxpayers that you represent. If you should have any questions concerning this matter, please feel free to call your attorney at your local office or call me in Houston.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Mott', with a large, stylized initial 'R'.

Robert Mott

**CCAD NOTE: HYPERLINK TO FORMS WILL NOT FUNCTION IN THIS PDF PRINT, SCROLL DOWN TO SEE FORMS.**

### Forms

[CLICK HERE](#) for the Word Document of the Resolution Form

[CLICK HERE](#) for the Word Document of the Order Form

[CLICK HERE](#) for the Word Document of the Ordinance Form

**An Ordinance of the City of Plano allowing the City of Plano to tax tangible personal property in transit which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253, and providing a severability clause, repealer clause, and an effective date.**

**WHEREAS**, the 82<sup>nd</sup> Texas Legislature in Special Session, enacted Senate Bill 1, to take effect on September 1, 2011, which would require a taxing unit to take action, in the required manner, after October 1, 2011, to provide for the taxation of goods-in-transit; and

**WHEREAS**, Texas Tax Code §11.253(j-1) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit; and

**WHEREAS**, the City Council of the City of Plano, having conducted a public hearing as required by Section 1-n (d), Article VIII, Texas Constitution, and Texas Tax Code §11.253(j-1) is of opinion that it is in the best interest of the City to continue to tax such goods-in-transit.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO THAT:**

**Section I.** Goods-in-transit, as defined Texas Tax Code Section 11.253(a)(2), as amended by Senate Bill 1, enacted by the 82<sup>nd</sup> Texas Legislature in Special Session, shall remain subject to taxation by the City of Plano, Texas.

**Section II.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

**Section III.** The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

**Section IV.** All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section V.** This Ordinance shall become effective immediately upon its passage.

**DULY PASSED AND APPROVED** this the 14<sup>th</sup> day of November, 2011.

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Phil Dyer, MAYOR

ATTEST:

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Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

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Diane C. Wetherbee, CITY ATTORNEY