

**Spring Branch Independent School District  
Agenda Item Information**

**Date of Board Meeting:** November 26, 2007

**Subject:** Request for Approval of the Resolution to Tax Tangible Personal Property in  
Transit Which Would Otherwise Be Exempt Pursuant to Texas Tax Code,  
Section. 11.253.

**Administrator Responsible:**

**Name:** Karen Wilson

**Position:** Associate Superintendent for Finance

**Purpose of Agenda Item:**

Information only       Action needed       Report

**Additional Information and/or Backup:**

The 80<sup>th</sup> Texas Legislature has enacted House Bill 621 to take effect on January 1, 2008, which added Texas Tax Code, Section 11.253 to exempt from taxation certain tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing or fabricating purposes (goods-in-transit) which property has been subject to taxation in the past.

We must hold a public hearing on the question of whether to tax or let them become exempt. Once a hearing is held, you may choose continued taxation of these types of goods in 2008 by resolution adoption.

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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 HB 621. This bill was the implementing legislation for a constitutional amendment that was passed several years ago. The bill is very similar to the Freeport exemption passed many years ago, but it has a potentially larger impact as time goes on. This letter is to inform you of your options to tax the goods subject to the new exemption and to provide you with the forms and procedure to tax these goods if you choose. Our firm takes no position on the policy question of whether or not to continue to tax the property that is subject to this new exemption. We simply believe that the governing body of each of our clients should have the tools to make an informed decision on behalf of the taxpayers they represent.

This new law passed without much scrutiny because it was a bracket bill that only affected one county in Texas until the closing days of the legislative session. Then an amendment made the exemption applicable statewide.

What is Exempted?

This bill exempts goods, principally inventory, that are stored in a location that is not owned by the owner of the goods and are transferred from that location to another location within 175 days. The goods may be in the location for the purposes of assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property. 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 that are owned by the owners of the goods themselves. However, this may change rapidly. In order to take advantage of this new law, many property owners may seek to transfer ownership of either the goods or the facilities in which the goods are stored, manufactured, processed, etc. to legal entities with different ownership. These types of paper changes could make the property exempt.

#### 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 2008. So if you wish to continue to tax these types of goods in 2008, you must act to tax the goods before the end of 2007. 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 the 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 must be taken by an order of the commissioner's court. For cities, this means that action must 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 are 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). So as the law exists today, a school district will lose taxable wealth due to this exemption without an offsetting increase in state aid. Even if the legislature restores the Comptroller's finding of taxable wealth to its previous role in state aid to school districts, the effect of the additional state aid is not a dollar for dollar offset.

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". The signature is fluid and cursive, with a large initial "R" and a long horizontal stroke at the end.

Robert Mott

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE SPRING BRANCH INDEPENDENT SCHOOL DISTRICT TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE, SECTION 11.253**

**WHEREAS**, the 80<sup>th</sup> Texas Legislature in Regular Session has enacted House Bill 621 to take effect on January 1, 2008, which added Tex. Tax Code §11.253 to exempt from taxation certain tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing or fabricating purposes (goods-in-transit) which property has been subject to taxation in the past; and

**WHEREAS**, Tex. Tax Code §11.253(j) 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 board of trustees of the Spring Branch Independent School District, having conducted a public hearing as required by Section 1-n (d), Article VIII, Texas Constitution, is of the opinion that it is in the best interests of the district to continue to tax such goods-in-transit;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE SPRING BRANCH INDEPENDENT SCHOOL DISTRICT THAT:** The goods-in-transit, as defined Tex. Tax Code 11.253(a)(2), as amended by House Bill 621, enacted by the 80<sup>th</sup> Texas Legislature in Regular Session, shall remain subject to taxation by the Spring Branch Independent School District.

Dated this 26th day of November, 2007.

\_\_\_\_\_  
Mike Falick  
President  
BOARD OF TRUSTEES

Attested:

\_\_\_\_\_  
Secretary