

SUBJECT: Allowing tax exemption for leased rent-to-own property

COMMITTEE: Ways and Means — favorable, with amendment

VOTE: 8 ayes — J. Keffer, Villarreal, Edwards, Grusendorf, Luna, Paxton, Ritter, Woolley

0 nays

1 absent — Smithee

WITNESSES: None

BACKGROUND: Under Texas Constitution Art. 8, sec. 1(d), the Legislature by general law must exempt from ad valorem taxation household goods and personal effects not held or used for the production of income. The Legislature may exempt from ad valorem taxation:

- a personal property homestead;
- tangible personal property that is not used for the production of income; and
- a leased vehicle not used primarily for the production of income.

Notwithstanding a law adopted under this section of the Constitution to exempt from taxation tangible personal property and leased vehicles, a political subdivision may tax such property, except the Legislature may place limitations on the taxation of vehicles not used primarily for income production.

Under Tax Code, sec. 23.12, rent-to-own property is taxed as inventory. The appraisal value of inventory is determined by its market value selling price. Inventory value depreciates according to an appraisal district's application of generally accepted appraisal practices.

DIGEST: HJR 65, as amended, would allow the Legislature to exempt tangible personal property leased under a rent-to-own contract and intended for personal use rather than income generation. A political subdivision still

could tax personal rent-to-own property, except the Legislature could place limitations on the taxation of such property.

The proposal would authorize the Legislature to prescribe a method that chief appraisers would use to appraise and calculate the depreciation of property owned by a dealer and leased to consumers for personal use.

The proposal would be presented to the voters at an election on November 8, 2005. The ballot proposal would read: "The constitutional amendment authorizing the legislature to exempt from ad valorem taxation rent-to-own property not held by the person renting the property primarily to produce income and to prescribe the method to be used to depreciate taxable rent-to-own property for tax appraisal purposes."

**SUPPORTERS
SAY:**

HJR 65 appropriately would allow for the exemption of rent-to-own property leased for personal use in homes, such as stereos, washing machines, and kitchen tables. Under Tax Code, ch. 11.14, all tangible personal property not used for income production is entitled to an exemption. Items exclusively used for personal use, whether leased or purchased, should be exempted from ad valorem taxation.

HJR 65 would allow political subdivisions to relieve citizens who leased property under rent-to-own contracts from double-taxation. Whereas individuals who can afford cash purchases for personal items are subject only to sales tax, a lessee is taxed twice — paying sales tax and also property tax that is passed through by the property owner to the lessee.

There is precedent in Texas law for exempting leased property from taxation. HB 3033 by Oliveira, enacted in 1999 by the 76th Legislature, exempts automobile dealers from property taxes on leased vehicles under justifications similar to those contained in this proposal to allow for the exemption of leased rent-to-own property.

HJR 65 would not place local governmental units in a financial bind by requiring them to exempt rent-to-own property from taxation. It simply would allow local governments to extend this tax relief to their citizens, and would allow the Legislature to prescribe the method by which chief appraisers would calculate depreciation of leased property for appraisal purposes.

OPPONENTS
SAY:

HJR 65 would continue a trend toward more local tax exemptions and declining property tax revenues. Even if the Legislature allowed local governments to opt out of the exemption, officials of political subdivisions would be under great pressure to allow this exemption. These officials already are torn by competing demands from their citizens for tax relief on the one hand and improved services on the other, and this proposed amendment only would worsen this dilemma for local governments. The fact that certain leased property already may receive exemptions under current law is not a good reason to authorize even more exemptions.

The legislative prescription of a depreciation schedule would run contrary to normal appraisal district standards. Under Tax Code, ch. 23.01, market value determines the acceptable appraisal methods and techniques used by appraisal districts. HJR 65 could result in the taxation of property based on distorted values.

NOTES:

The committee amendment would delete authority for the Legislature to adopt a depreciation schedule for rent-to-own property under which the property would depreciate by one-third of its value each year.

HB 2187 by Otto, the enabling legislation for HJR 65, is on today's General State Calendar.