

- SUBJECT:** Standard presumptive value for taxation of motor vehicle sales
- COMMITTEE:** Ways and Means — committee substitute recommended
- VOTE:** 9 ayes — J. Keffer, Villarreal, Edwards, Grusendorf, Luna, Paxton, Ritter, Smithee, Woolley
- 0 nays
- WITNESSES:** For — None
- Against — None
- On — Mike Craig, Texas Department of Transportation; Anne O’Ryan, AAA Texas
- BACKGROUND:** Under Tax Code sec. 152.021(b), Texas imposes a 6.25 percent retail sales-and-use tax on motor vehicles.
- Under Tax Code Sec. 152.002 (a), the “total consideration” of a motor vehicle for purposes of determining its taxable value is the amount paid for the vehicle, without deducting:
- the cost of the vehicle;
  - the cost of material, labor, interest paid, or any other expense;
  - the cost of the transportation of the vehicle before its sale; or
  - the amount of excise tax imposed on the vehicle.
- DIGEST:** CSHB 4 would require the Texas Department of Transportation (TxDOT) to determine the “standard presumptive value” – or average retail value – of a motor vehicle based on a national industry reporting service. The department would maintain the standard presumptive values of vehicles in its registration and title system and update the data at least quarterly. These data would be made available to county tax assessor-collectors.
- Effective October 1, 2006, a county tax assessor-collector would have to use the amount paid for a motor vehicle to assess the state sales-and-use tax on the purchase if the amount paid was at least 80 percent of the

standard presumptive value of the vehicle. If the amount paid for the motor vehicle was less than 80 percent of the standard presumptive value, then the county tax assessor-collector would have to assess the tax on the standard presumptive value of the vehicle. The county tax assessor-collector could assess the sales-and-use tax on an amount less than 80 percent of the standard presumptive value only if the retail value were shown on:

- a receipt or invoice provided by a motor vehicle dealer;
- a certified appraisal performed by a motor vehicle dealer; or
- a certified appraisal performed by a licensed adjuster.

If the individual provided such information, the tax would be levied on the retail value shown on the receipt, invoice, or appraisal. If the seller chose to present a certified appraisal, that appraisal would have to be presented by the purchaser to the tax assessor-collector within 20 days after the purchase. A motor vehicle's total consideration would be the amount on which the tax was computed.

A motor vehicle dealer would be required to provide a certified appraisal of the retail value of a motor vehicle and could charge a fee for that service, which would be determined by the comptroller.

These requirements would not apply to transactions involving an even exchange of vehicles or to a gift. The bill also would not apply to abandoned or disposed motor vehicles.

The standard presumption value provision in CSHB 4 would take effect October 1, 2006. The remainder of CSHB 4 would take effect July 1, 2006, if the bill is finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the first day of the first month on or after 91st day after the last day of the third called session (August 15, 2006, if the special session lasts the full 30 days, which would make the effective date September 1, 2006).

**SUPPORTERS  
SAY:**

CSHB 4 would give state and local authorities the tools to collect motor vehicle sales taxes that already should be paid. Currently, no mechanism exists to ensure that people who transfer titles on used vehicles accurately state the sales price. The state maintains a sophisticated computer network through the registration and title system (RTS) that tracks millions of vehicle titles. It would be technologically feasible to add objective

information about vehicle values to the system. TxDOT officials report that changing the RTS system to include vehicle price information would have no significant effect on the agency's budget or on the operation of the RTS system.

The bill would provide safeguards to allow many owners to pay taxes on a vehicle's actual price when that price was less than a vehicle's standard presumptive value. A buyer could provide the assessor-collector with either an invoice from the dealer or a certified appraisal of the vehicle's value to verify that a lower price was paid. This provision addresses concerns that individuals who pay a discounted price for damaged vehicles might be taxed inappropriately on an inflated value.

CSHB 4 would allow an individual who paid as much as 20 percent below the vehicle's standard presumptive value to be taxed on that sale price. This provision would reduce the administrative burden on a taxpayer who struck a reasonable bargain when the taxpayer purchased the vehicle, allowing the taxpayer to pay the appropriate tax on the sale price without having to pay a fee to obtain an appraisal of the vehicle. The 80 percent floor on the assessment also would prevent any massive underreporting of a vehicle's value that could occur under current law. If an individual paid less than 80 percent of the standard presumptive value for his or her vehicle, that person could choose to pay taxes on 80 percent of the standard presumptive value or could present either an invoice from the dealer or a certified appraisal of the vehicle's lower retail value.

Tax assessor-collectors overstate the difficulty in administering the used-car tax collection program. Compliance would increase over time. Most tax assessor-collectors are elected to office understanding that collecting fees and sales taxes on automobile sales will make up the bulk of their responsibilities. They have a duty to ensure compliance with all state and local laws, as do all elected officials.

The Legislative Budget Board (LBB) estimates that the bill would raise approximately \$41 million in additional annual revenue from improved automobile sales tax collection in fiscal 2007, an amount projected to increase to more than \$56 million annually beginning in fiscal 2008.

**OPPONENTS  
SAY:**

CSHB 4 would place an undue burden on an individual who was attempting honestly to pay the taxes due on his or her purchase. Even with the allowance that a vehicle could be taxed at 80 percent of its standard

presumptive value, this bill could overburden and overtax the purchaser of a motor vehicle. If an individual paid less than 80 percent of the standard presumptive value for a vehicle, that person would be forced to either pay tax on an inflated value or seek out and pay an adjuster to perform an appraisal of the vehicle. Further, there is no guarantee that an appraisal accurately would reflect the sale price paid by the individual.

This bill would put tax assessor-collectors in the position of policing a tax collection program for which they might not be qualified. Determining the value of a particular automobile is a subjective process, even if a clerk has access to RTS values. For example, a new owner could claim that a vehicle's value was too high because the vehicle was not in running condition or was damaged. Conversely, options or added features such as leather seats or special wheel covers could increase the value of a vehicle beyond the standard price.

The change proposed in CSHB 4 would be inconvenient for sellers and buyers. Some vehicles, especially older cars or special imports, might not be included in the updated RTS system, and a clerk might have to spend too much time researching values in such cases before processing transfer applications. Tax-assessor offices typically are the busiest during the first and last five days of a month, and the delays caused by this bill could push lines out the doors. Large jurisdictions such as Harris County process thousand of transactions daily, and even medium-sized counties such as Brazoria County may receive 100 transfer requests for both new and used vehicles from the same automobile dealers. This bill would make it difficult for tax assessor-collectors to process transfers in a timely manner.

**NOTES:**

According to the LBB, the bill would result in a positive gain to the state in fiscal 2007 of approximately \$40.8 million in general revenue-related funds. The estimated revenue increase in fiscal 2008-09 would be approximately \$113.5 million.

HB 2 by Pitts, also on today's House calendar, would dedicate the additional revenues generated by CSHB 4 to ongoing school property tax reduction.

HB 4 as introduced would have required an individual to pay sales tax on the full standard presumptive value of a vehicle, rather than allowing payment of 80 percent of the standard presumptive value of the vehicle as in the committee substitute. The substitute also would allow an individual

to be taxed upon the retail value of a vehicle by producing a receipt or invoice from a motor vehicle dealer.