

SUBJECT: Property tax exemption for a personal vehicle used for business activities

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Keffer, Ritter, Otto, Bonnen, Y. Davis, Paxton, Peña, Pitts

0 nays

1 absent — Flores

WITNESSES: For — Joe Stewart, Texas Association of Realtors; (*Registered, but did not testify*: Daniel Gonzalez, Texas Association of Realtors)

Against — None

On — John Heleman, Comptroller's Office; Jim Robinson, Buddy Winn

BACKGROUND: Tax Code, ch. 11 governs taxable property and exemptions.

Tax Code, sec. 22.01 requires a person to render for taxation all tangible personal property used for the production of income. During the 2005 regular session, the 79th Legislature amended Tax Code, sec. 22.01 by enacting HB 809 by Hilderbran. Under sec. 22.01(k), an individual who owns and is the primary operator of one or more passenger cars or light trucks for professional and for personal purposes is not required to render the vehicles for taxation.

In November 2006, in Opinion No. GA-0484, Atty. Gen. Gregg Abbott determined that while Tax Code, sec. 22.01(k) exempts cars and light trucks used for business and personal purposes from *rendition* for taxation, HB 809 did not establish that such personal property is *exempt* from taxation under Tax Code, ch. 11, or Texas Constitution, Art. 8, which governs taxation and revenue.

DIGEST: CSHB 1022 would add Tax Code, sec. 11.253 to grant an exemption from ad valorem taxation for one passenger car or light truck owned and used by an individual for both professional and personal activities. A person who had been granted or who had applied for such an exemption could not apply for another exemption until after the exemption or application had been denied.

Tax Code, sec. 22.01(k) would specify that an individual who had applied for an exemption for a vehicle under sec. 11.253 would not have to render the vehicle for taxation.

A person claiming the exemption offered under this bill in the 2007 tax year could apply for the exemption by April 1, 2008. The chief appraiser of an appraisal district would have to correct the appraisal roll for the district to reflect an exemption given under the bill as soon as practicable and promptly certify the exemption to the assessor for each taxing unit that imposed ad valorem taxes on a motor vehicle owned by the person. If a person who had been granted an exemption already had paid taxes on an exempt motor vehicle for 2007 before the date the exemption was granted, the collector for the taxing unit would have to refund those taxes within 30 days after the exemption was certified.

CSHB 1022 would apply beginning with the tax year beginning January 1, 2007, and would not apply to a motor vehicle used to transport passengers for hire.

The bill would take effect on the date that the accompanying constitutional amendment (HJR 54) took effect, if approved by the voters.

**SUPPORTERS  
SAY:**

CSHB 1022 would eliminate the requirement that individuals who use personal vehicles for business purposes must pay ad valorem taxes on those vehicles. Many independent entrepreneurs use a personal vehicle in the execution of their professional responsibilities, and it is inappropriate that such person's car or truck be taxed. Because they are unable to receive an exemption for personal use, individuals are taxed on the entire value of a vehicle. The Legislature has not shown a desire to tax property used for personal purposes in the past, and CSHB 1022 simply would clarify state law in that regard.

CSHB 1022, along with its accompanying constitutional amendment, HJR 54 by Hilderbran, et al., would clarify confusion about the law stemming from a recent attorney general's opinion, which holds that the enactment of HB 809 in 2005 did not establish that personal vehicles used for business purposes are exempt from taxation. Consequently, many individuals still are required to pay ad valorem taxes on such vehicles. CSHB 1022 and HJR 54 would clarify the will of the Legislature that these vehicles not be taxed.

CSHB 1022 would limit the exemption from taxation to one vehicle per person, thus eliminating the chance that one individual could benefit from the exemption of an entire fleet of vehicles used for commercial purposes. The Legislative Budget Board anticipates no significant fiscal impact to state or local governments due to the enactment of CSHB 1022. However, the bill truly would benefit realtors, farmers, and other small business owners and contractors who operate personal vehicles dually for commercial purposes.

OPPONENTS  
SAY:

Vehicles exempted under this bill should be taxable and treated as any other personal property that generates income. Even though the fiscal impact may be minor, the Legislature traditionally has taxed property associated with the production of income, and CSHB 1022 would weaken this longstanding policy.

OTHER  
OPPONENTS  
SAY:

The limitation that an individual could exempt only one vehicle used for both personal and professional purposes would be too strict. Many individuals have two or three vehicles that they use for both purposes. Under CSHB 1022, a person who owned more than one personal vehicle used for professional purposes still could be taxed on those additional vehicles.

NOTES:

The committee substitute would limit the exemption for a vehicle used for personal and professional purposes to one vehicle for an individual, instead of "one or more than one" vehicle in the bill as introduced. The committee substitute would specify that a person who had been granted or who had applied for such an exemption could not apply for another exemption until after the exemption or application had been denied. The committee substitute also added a provision specifying that the bill would not apply to a motor vehicle used to transport passengers for hire.

The companion bill, SB 736 by Williams, has been referred to the Senate Finance Committee.

HJR 54 by Hilderbran, et al., which would amend the Constitution to exempt from taxation a personal vehicle used for business activities, is on today's Constitutional Amendments Calendar.