

Sec. 23.1243. Refund of Prepayment of Taxes on Fleet Transaction.

(a) In this section, “dealer” and “fleet transaction” have the meanings assigned those terms by Section 23.1241.

(b) A dealer may apply to the chief appraiser for a refund of the unit property tax paid on a sale that is a fleet transaction.

(c) The chief appraiser shall determine whether to approve or deny, wholly or partly, the refund requested in the application. The chief appraiser shall deliver a written notice of the chief appraiser’s determination to the collector maintaining the escrow account described by Section 23.1242 and to the applicant that states the amount, if any, to be refunded.

(d) A collector who receives a notice described by Subsection (c) stating an amount to be refunded shall pay the amount to the dealer not later than the 45th day after the date the collector receives the notice. The dealer shall use the dealer’s best efforts to pay the refund to the customer who paid the tax that relates to the fleet transaction for which the refund is requested not later than the 30th day after the date the dealer receives the refund.

HISTORY: Enacted by Acts 2011, 82nd Leg., ch. 322 (H.B. 2476), § 4, effective January 1, 2012.

Sec. 23.125. Prepayment of Taxes by Certain Taxpayers.

(a) In this section:

(1) “Aggregate tax rate” means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer’s vessel and outboard motor inventory.

(2) “Chief appraiser” has the meaning given it in Section 23.124 of this code.

(3) “Collector” has the meaning given it in Section 23.124 of this code.

(4) “Dealer’s vessel and outboard motor inventory” has the meaning given it in Section 23.124 of this code.

(5) “Declaration” has the meaning given it in Section 23.124 of this code.

(6) “Owner” has the meaning given it in Section 23.124 of this code.

(7) “Relevant taxing unit” means a taxing unit, including the county, authorized by law to levy property taxes against a dealer’s vessel and outboard motor inventory.

(8) “Sales price” has the meaning given it in Section 23.124 of this code.

(9) “Statement” means the dealer’s vessel and outboard motor inventory tax statement filed on a form promulgated by the comptroller as required by this section.

(10) “Subsequent sale” has the meaning given it in Section 23.124 of this code.

(11) “Total annual sales” has the meaning given it in Section 23.124 of this code.

(12) “Unit property tax factor” means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer’s vessel and outboard motor inventory is located on January 1 of the current year.

(b) Except for a vessel or outboard motor sold to a dealer, a vessel or outboard motor included in a fleet transaction, or a vessel or outboard motor that is the subject of a subsequent sale, an owner or a person who has agreed by contract to pay the owner’s current year property taxes levied against the owner’s vessel and outboard motor inventory shall assign a unit property tax to each vessel and outboard motor sold from a dealer’s vessel and outboard motor inventory. The unit property tax of each vessel or outboard motor is determined by multiplying the sales price of the vessel or outboard motor by the unit property tax factor. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as required by this section, deposit with the collector a sum equal to the total of unit property tax assigned to all vessels and outboard motors sold from the dealer’s vessel and outboard motor inventory in the prior month to which a unit property tax was assigned. The money shall be deposited by the collector in or otherwise credited by the collector to the owner’s escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the dealer’s vessel and outboard motor inventory, and the owner shall fund the escrow account as provided by this subsection.

(c) The collector shall maintain the escrow account for each owner in the county depository. The collector is not required to maintain a separate account in the depository for each escrow account created as provided by this section but shall maintain separate records for each owner. The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector, and that interest may be used by no entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

(d) The owner may not withdraw funds in an escrow account created pursuant to this section.

(e) The comptroller shall promulgate a form entitled “Dealer’s Vessel and Outboard Motor Inventory Tax Statement.” Each month, a dealer shall complete the form regardless of whether a vessel and outboard motor is sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:

(1) a description of each vessel or outboard motor sold;

(2) the sales price of the vessel or outboard motor;

(3) the unit property tax of the vessel or outboard motor, if any; and

(4) the reason no unit property tax is assigned if no unit property tax is assigned.

(f) On or before the 10th day of each month a dealer shall file with the collector the statement covering the sale of each vessel or outboard motor sold by the dealer in the prior month. On or before the 10th day of a month following a month in which a dealer does not sell a vessel or outboard motor, the dealer must file the statement with the collector and indicate that no sales were made in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each vessel and outboard motor sold. A chief appraiser or collector may examine documents held by a dealer as provided by this subsection in the same manner, and subject to the same provisions, as are set forth in Section 23.124(g).

(g) Except as provided by this subsection, the requirements of Subsection (f) of this section apply to all dealers, without regard to whether or not the dealer owes vessel and outboard motor inventory tax for the current year. A dealer who owes no vessel and outboard motor inventory tax for the current year because he was not in business on January 1:

(1) shall file the statement required by this section showing the information required by this section for each month during which the dealer is in business; and

(2) may neither assign a unit property tax to a vessel or outboard motor sold by the dealer nor remit money with the statement unless pursuant to the terms of a contract as provided by Subsection (l) of this section.

(h) A collector may establish a procedure, voluntary or mandatory, by which the unit property tax of a vessel or outboard motor is paid and deposited into an owner's escrow account at the time of processing the transfer of title to the vessel or outboard motor.

(i) A relevant taxing unit shall, on its tax bill prepared for the owner of a dealer's vessel and outboard motor inventory, separately itemize the taxes levied against the dealer's vessel and outboard motor inventory. When the tax bill is prepared by a relevant taxing unit for a dealer's vessel and outboard motor inventory, the assessor for the relevant taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes levied against a dealer's vessel and outboard motor inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each relevant taxing unit in proportion to the amount of taxes levied, and the assessor of each relevant taxing unit shall apply the funds received from the collector to the taxes owed by the owner.

(j) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.

(k) The collector shall remit to each relevant taxing unit the total amount collected by the collector in deficiency payments. The assessor of each relevant taxing unit shall apply those funds to the taxes owed by the owner. Taxes that are due but not received by the collector on or before January 31 are delinquent. Not later than February 15, the collector shall distribute to relevant taxing units in the manner set forth in this section all funds collected pursuant to the authority of this section and held in escrow by the collector as provided by this section. This section does not impose a duty on a collector to collect delinquent taxes that the collector is not otherwise obligated by law or contract to collect.

(l) A person who acquires the business or assets of an owner may, by contract, agree to pay the current year vessel and outboard motor inventory taxes owed by the owner. The owner who owes the current year tax and the person who acquires the business or assets of the owner shall jointly notify the chief appraiser and the collector of the terms of the agreement and of the fact that the other person has agreed to pay the current year vessel and outboard motor inventory taxes owed by the dealer. The chief appraiser and the collector shall adjust their records accordingly. Notwithstanding the terms of Section 23.124 of this code, a person who agrees to pay current year vessel and outboard motor inventory taxes as provided by this subsection is not required to file a declaration until the year following the acquisition. This subsection does not relieve the selling owner of the tax liability.

(m) A dealer who fails to file a statement as required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$100. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(n) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a statement as required by this section shall forfeit a penalty. A tax lien attaches to the owner's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney shall collect the penalty established by this section in the name of the chief appraiser or collector. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. A penalty forfeited under this subsection is \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due.

(o) An owner who fails to remit unit property taxes due as required by this section shall pay a penalty of five percent of the amount due. If the amount is not paid within 10 days after the due date, the owner shall pay an additional penalty of five percent of the amount due. Notwithstanding the terms of this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are not delinquent. The collector, the collector's designated agent, or the county or district attorney shall enforce the terms of this subsection. A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

(p) Fines and penalties collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the general fund.