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SUPPLEMENT



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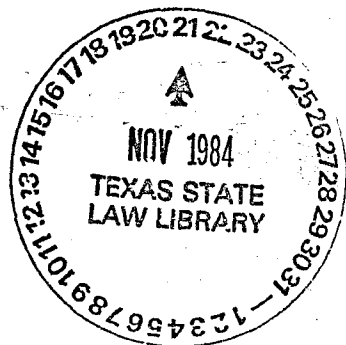
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Supplement  
to  
Texas  
Tax  
Code

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Texas Tax Code Pamphlet



*As Amended at the  
1984 Second  
Called Session of the  
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WTSC Tax Code

# TAX CODE

## TITLE 1. PROPERTY TAX CODE SUBTITLE C. TAXABLE PROPERTY AND EXEMPTIONS

### CHAPTER 11. TAXABLE PROPERTY AND EXEMPTIONS

#### SUBCHAPTER A. TAXABLE PROPERTY

##### § 11.02. Intangible Personal Property

*Text of section effective January 1, 1985*

(a) Except as provided by Subsection (b) of this section, intangible personal property is not taxable.

(b) Intangible property of a transportation business listed in Subchapter A, Chapter 24 of this code, and intangible property governed by Article 4.01, Insurance Code, or by Section 11.09, Texas Savings and Loan Act, are taxable as provided by law, unless exempt by law, if this state has jurisdiction to tax those intangibles.

(c) This state has jurisdiction to tax intangible personal property if the property is:

- (1) owned by a resident of this state; or
- (2) located in this state for business purposes.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 506, ch. 31, art. 3, part A, § 1, eff. Jan. 1, 1985.]

*For text of section effective until January 1, 1985, see § 11.02, Tax Code Pamphlet*

Article 3, part C, § 1 of the 1984 amendatory act provides: "Parts A and B of this article are nonseverable, and if all or any portion of either part is declared to be invalid by a final judgment of a court of competent jurisdiction with the result either that banking corporations are required to pay the bank shares tax after January 1, 1985, or that banking corporations other than banks organized under Section 25(a) of the Federal Reserve Act (12 U.S.C. 611-631) (edge corporations) are not required to pay or are not subject to the corporate franchise tax for franchise tax periods starting on or after May 1, 1985, the other part is also invalid. The legislature would not have adopted Part A without adopting Part B, and the legislature would not have adopted Part B without adopting Part A. This section prevails over any general severability clause."

Article 3, part D, § 2 of the 1984 amendatory act provides: "This article takes effect May 1, 1985, except that Part A of this article takes effect January 1, 1985, and except that any payment of the franchise tax that is for the period beginning May 1, 1985, and that is required to be made before the effective date of this article shall be made according to and on the basis of the franchise tax rates to be effective on May 1, 1985."

#### SUBCHAPTER B. EXEMPTIONS

##### § 11.26. Limitation of School Tax on Homesteads of Elderly

*[See Tax Code Pamphlet for text of (a) to (d)]*

(e) For each school district in an appraisal district, the chief appraiser shall determine the portion

of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in a tax year because of the limitation on tax increases imposed by this section. That portion is calculated by determining the taxable value that, if multiplied by the tax rate adopted by the school district for the tax year, would produce an amount equal to the amount of tax that would have been imposed by the school district on residence homesteads of the elderly if the limitation on tax increases imposed by this section were not in effect, but that was not imposed because of that limitation. The chief appraiser shall determine that taxable value and certify it to the State Property Tax Board as soon as practicable for each tax year.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 341, ch. 28, art. II, § 16, eff. Sept. 1, 1984.]

## SUBTITLE D. APPRAISAL AND ASSESSMENT

### CHAPTER 21. TAXABLE SITUS

#### SUBCHAPTER A. TAXABLE SITUS OF PROPERTY GENERALLY

##### § 21.09. Bank Stock

###### Repeal

*This section is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part A, § 2.*

Article 3, part A, § 3 of the 1984 repealing act provides:

"The provisions of Title 1, Tax Code, repealed by this article remain in effect after the effective date of this article for the sole purpose of the collection and enforcement of ad valorem taxes imposed for tax years beginning before the effective date of this article."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

### CHAPTER 22. RENDITIONS AND OTHER REPORTS

#### SUBCHAPTER A. INFORMATION FROM TAXPAYER

##### § 22.06. Rendition by Bank

###### Repeal

*This section is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part A, § 2.*

Article 3, part A, § 3 of the 1984 repealing act provides:

"The provisions of Title 1, Tax Code, repealed by this article remain in effect after the effective date of this article for the sole purpose of the collection and enforcement of ad valorem taxes

imposed for tax years beginning before the effective date of this article."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

**CHAPTER 23. APPRAISAL METHODS AND PROCEDURES**

**SUBCHAPTER B. SPECIAL APPRAISAL PROVISIONS**

**§ 23.11. Banking Corporation**

**Repeal**

*This section is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part A, § 2.*

Article 3, part A, § 3 of the 1984 repealing act provides:

"The provisions of Title 1, Tax Code, repealed by this article remain in effect after the effective date of this article for the sole purpose of the collection and enforcement of ad valorem taxes imposed for tax years beginning before the effective date of this article."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

**§ 23.14. Unincorporated Bank**

**Repeal**

*This section is repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part A, § 2.*

Article 3, part A, § 3 of the 1984 repealing act provides:

"The provisions of Title 1, Tax Code, repealed by this article remain in effect after the effective date of this article for the sole purpose of the collection and enforcement of ad valorem taxes imposed for tax years beginning before the effective date of this article."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

**CHAPTER 25. LOCAL APPRAISAL**

**§§ 25.14, 25.15.**

**Repeal**

*These sections are repealed effective January 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part A, § 2.*

Article 3, part A, § 3 of the 1984 repealing act provides:

"The provisions of Title 1, Tax Code, repealed by this article remain in effect after the effective date of this article for the sole purpose of the collection and enforcement of ad valorem taxes imposed for tax years beginning before the effective date of this article."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

**CHAPTER 26. ASSESSMENT**

**§ 26.08. Election to Limit School Taxes**

*[See Tax Code Pamphlet for text of (a) to (f)]  
Text of subsecs. (g) and (h) effective until January 1, 1987*

(g) If a school district is certified by the commissioner of education under Section 16.257, Education Code, to have incurred reduced state revenue from the preceding year, or if a school district increases its tax rate to qualify for enrichment equalization aid (or increased enrichment equalization aid) under Section 16.157, Education Code, the adopted tax rate that allows voters to seek to limit school taxes under this section must exceed the rate calculated under Section 26.04 of this code by eight percent plus:

(1) the percentage of increase necessary to impose taxes in an amount equal to the certified amount of lost state revenue; and

(2) the percentage of increase necessary to qualify for the enrichment equalization aid.

(h) This subsection and Subsection (g) of this section expire January 1, 1987.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 337, ch. 28, art. II, § 14, eff. Sept. 1, 1984.]

**TITLE 2. STATE TAXATION**

**SUBTITLE A. GENERAL PROVISIONS**

**CHAPTER 101. GENERAL PROVISIONS**

**§ 101.009. Allocation and Transfer of Net Revenues**

(a) Except as provided by Subsection (b) of this section, all revenues collected from the taxes imposed by the chapters of this title and by Chapter 8, Title 132, Revised Civil Statutes of Texas, 1925, as amended, after deduction of the portion allocated for collection, enforcement, and administration purposes, shall first be deposited in the general revenue fund. After the initial deposit, transfers from the general revenue fund to other funds shall be made at the time, in the manner, and in the amounts provided by law.

*[See Tax Code Pamphlet for text of (b)]*

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 347, ch. 28, art. II, part B, § 1, eff. Sept. 1, 1984.]

Article II, part B, § 17 of the 1984 amendatory act provides:

"This part takes effect September 1, 1984, and applies to tax collections received on or after that date, regardless of when the tax is imposed."

SUBTITLE E. SALES, EXCISE, AND  
USE TAXES

CHAPTER 151. LIMITED SALES,  
EXCISE, AND USE TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec.

- 151.0028. "Amusement Services".  
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151.0032. "Custom Computer Program".  
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SUBCHAPTER A. GENERAL PROVISIONS

§ 151.0028. "Amusement Services"

"Amusement services" means the provision of amusement, entertainment, or recreation, but does not include the provision of educational or health services if prescribed by a licensed practitioner of the healing arts for the primary purpose of education or health maintenance or improvement.

[Acts 1984, 68th Leg., 2nd C.S., p. 534, ch. 31, art. 7, § 3, eff. Oct. 2, 1984.]

§ 151.0031. "Computer Program"

"Computer program" means a series of instructions that are coded for acceptance or use by a computer system and that are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, punched cards, printed instructions, or other tangible or electronic media.

[Acts 1984, 68th Leg., 2nd C.S., p. 533, ch. 31, art. 6, § 1, eff. Oct. 2, 1984.]

§ 151.0032. "Custom Computer Program"

"Custom computer program" means a computer program created or significantly modified for a particular customer or developed by the user for his own use or consumption. The following criteria shall be used in determining whether a computer program is a custom computer program:

- (1) whether preparation or modification of the computer program for the customer's use re-

quired significant analysis of the customer's requirements and system by the program vendor or an independent consultant; or

- (2) whether the program requires significant modification by the vendor so that it may be used in a specific computer hardware or software environment.

[Acts 1984, 68th Leg., 2nd C.S., p. 533, ch. 31, art. 6, § 1, eff. Oct. 2, 1984.]

§ 151.0033. "Cable Television Service"

"Cable television service" means the distribution of video programming with or without use of wires to subscribing or paying customers.

[Acts 1984, 68th Leg., 2nd C.S., p. 535, ch. 31, art. 7, § 4, eff. Oct. 2, 1984.]

§ 151.0045. "Personal Services"

"Personal services" means those personal services listed as personal services under Group 721, Major Group 72 of the Standard Industrial Classification Manual, 1972, and includes massage parlors, escort services, and Turkish baths under Group 729 of said manual but does not include any other services listed under Group 729 unless otherwise covered under this Act, prepared by the statistical policy division of the office on management and budget, office of the president of the United States.

[Acts 1984, 68th Leg., 2nd C.S., p. 535, ch. 31, art. 7, § 5, eff. Oct. 2, 1984.]

§ 151.005. "Sale" or "Purchase"

"Sale" or "purchase" means any of the following when done or performed for consideration:

- (1) a transfer of title or possession of tangible personal property;
- (2) the exchange, barter, lease, or rental of tangible personal property;
- (3) the performance of a taxable service or, in the case of an amusement service, a transfer of title to or possession of a ticket or other admission document, the collection of an admission fee, whether by individual performance, subscription series, or membership privilege, or the use of a coin-operated machine;
- (4) the production, fabrication, processing, printing, or imprinting of tangible personal property for consumers who directly or indirectly furnish the materials used in the production, fabrication, processing, printing, or imprinting;
- (5) the furnishing and distribution of tangible personal property by a social club or fraternal organization to anyone;
- (6) the furnishing, preparation, or service of food, meals, or drinks;
- (7) a transfer of the possession of tangible personal property if the title to the property is retained by the seller as security for the payment of the price; or
- (8) a transfer of the title or possession of tangible personal property that has been produced,

fabricated, or printed to the special order of the customer.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 535, ch. 31, art. 7, § 6, eff. Oct. 2, 1984.]

§ 151.006. "Sale for Resale"

"Sale for resale" means a sale of:

(1) tangible personal property or a taxable service to a purchaser who acquires the property or service for the purpose of reselling it in the United States of America or a possession or territory of the United States of America in the normal course of business in the form or condition in which it is acquired or as an attachment to or integral part of other tangible personal property or taxable service;

(2) tangible personal property to a purchaser for the sole purpose of the purchaser's leasing or renting it in the United States of America or a possession or territory of the United States of America to another person, but not if incidental to the leasing or renting of real estate;

(3) tangible personal property to a purchaser who acquires the property for the purpose of transferring it in the United States of America or a possession or territory of the United States of America as an integral part of a taxable service; or

(4) a taxable service performed on tangible personal property that is held for sale by the purchaser of the taxable service.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 536, ch. 31, art. 7, § 7, eff. Oct. 2, 1984.]

§ 151.007. "Sales Price" or "Receipts"

[See Tax Code Pamphlet for text of (a) and (b)]

(c) "Sales price" or "receipts" does not include any of the following if separately identified to the customer by such means as an invoice, billing, sales slip or ticket, or contract:

(1) a cash discount allowed on the sale;

(2) the amount charged for tangible personal property returned by a customer if the total amount charged is refunded by cash or credit;

(3) a refund of the charges for the performance of a taxable service;

(4) the amount of tax imposed by the United States on or with respect to retail or wholesale sales of tires or fishing equipment, whether imposed on the retailer, wholesaler, or consumer under Subtitle D or E, Title 26, United States Code;<sup>1</sup>

(5) finance, carrying and service charges, or interest from credit extended on sales of taxable items under a conditional sales contract or other contract providing for the deferred payment of the purchase price;

(6) the value of tangible personal property taken by a seller in trade as all or part of the consideration for a sale of a taxable item;

(7) a charge for transportation of tangible personal property after the sale;

(8) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the tangible personal property sold unless the labor or service rendered is a taxable service under this chapter;

(9) the face value of United States coin or currency in a sale of that coin or currency in which the total consideration given by the purchaser exceeds the face value of the coin or currency; or

(10) a voluntary gratuity or a reasonable mandatory charge for the service of a meal or food products, including soft drinks and candy, for immediate human consumption when the service charge is separated from the sales price of the meal or food product and identified as a gratuity or tip and when the total amount of the service charge is disbursed by the employer to employees who customarily and regularly provide the service.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 537, ch. 31, art. 7, § 8, eff. Oct. 2, 1984.]

<sup>1</sup> 26 U.S.C.A. § 4001 et seq. or § 5001 et seq.

§ 151.009. "Tangible Personal Property"

"Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and, for the purposes of this chapter, the term includes a computer program that is not a custom computer program.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 533, ch. 31, art. 6, § 2, eff. Oct. 2, 1984.]

§ 151.010. "Taxable Item"

"Taxable item" means tangible personal property and taxable services.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 534, ch. 31, art. 7, § 1, eff. Oct. 2, 1984.]

§ 151.0101. "Taxable Services"

(a) "Taxable services" means:

(1) amusement services;

(2) cable television services;

(3) personal services;

(4) motor vehicle parking and storage services; and

(5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A) aircraft;

(B) a ship, boat, or other vessel, other than a sports fishing boat or any other vessel used for pleasure; and

(C) the repair, maintenance, and restoration of a motor vehicle.

(b) The comptroller shall have exclusive jurisdiction to interpret Subsection (a) of this section.

[Acts 1984, 68th Leg., 2nd C.S., p. 534, ch. 31, art. 7, § 2, eff. Oct. 2, 1984.]

SUBCHAPTER C. IMPOSITION AND  
COLLECTION OF SALES TAX

**§ 151.051. Sales Tax Imposed**

*[See Tax Code Pamphlet for text of (a)]*

(b) The sales tax rate is 4.125 percent of the sales price of the taxable item sold.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 13, § 1, eff. Oct. 2, 1984.]

**§ 151.053. Sales Tax Brackets**

(a) If the sales price involves a fraction of a dollar, the sales tax to be added to the sales price shall be determined under the following schedule:

AMOUNT OF SALE	TAX
\$ .01 to \$ .12	No tax
.13 to .36	\$ .01
.37 to .60	.02
.61 to .84	.03
.85 to 1.09	.04
1.10 to 1.33	.05

*[See Tax Code Pamphlet for text of (b)]*

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 13, § 2, eff. Oct. 2, 1984.]

**§ 151.054. Gross Receipts Presumed Subject to Tax**

(a) Except as provided by Subsection (d) of this section, all gross receipts of a seller are presumed to have been subject to the sales tax unless a resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale certificate stating that the tangible personal property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.<sup>1</sup>

(d) A sale of liquor, wine, beer, or malt liquor by the holder of a manufacturer's license, wholesaler's permit, general class B wholesaler's permit, local class B wholesaler's permit, local distributor's permit, or a general, local, or branch distributor's license issued under the Alcoholic Beverage Code to the holder of a retail license or permit issued under the Alcoholic Beverage Code is presumed to be a sale for resale. In a sale to which this section applies, the seller is not required to receive a resale certificate from the purchaser.

(e) Properly executed resale or exemption certificates should be in the possession of the seller at the time the nontaxable transaction occurs. If the sell-

er is not in possession of these certificates within 60 days from the date written notice requiring possession of them is given to the seller by the comptroller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. If the seller acquires the certificates within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions. A deduction may not be granted on the basis of certificates obtained after the 60-day period.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 556, ch. 31, art. 15, § 2, eff. Oct. 2, 1984.]

<sup>1</sup> Section 151.301 et seq.

**§ 151.055. Sales of Items Acquired for Lease or Rental**

*[See Tax Code Pamphlet for text of (a)]*

(b) If tangible personal property is rented or leased under an agreement that provides that all or a portion of the rental or lease payments may be credited against the purchase price of the item, the lessor shall collect the sales tax on the sales price,<sup>2</sup> including the sum of all lease or rental payments for the term of the lease or rental, at the time the purchaser takes possession of the property or when the first payment is due, whichever period is the earlier. If the purchaser-lessee returns the taxable item to the seller-lessor before the end of the lease or rental period without having acquired title to the property, the seller-lessor may take a credit against other taxes due under this chapter or claim a refund as provided by this code for an amount equal to the amount of the taxes paid on the unpaid portion of the sales price.

[Amended by Acts 1984, 68th Leg., 2nd C.S. p. 546, ch. 31, art. 9, § 2, eff. Oct. 2, 1984.]

**§ 151.057. Services by Employees**

A service performed by an employee for his employer in the regular course of business, within the scope of the employee's duties, and for which the employee is paid his regular wages or salary is not taxable under this chapter.

[Acts 1984, 68th Leg., 2nd C.S., p. 538, ch. 31, art. 6, § 9, eff. Oct. 2, 1984.]

SUBCHAPTER D. IMPOSITION AND  
COLLECTION OF USE TAX

**§ 151.104. Sale for Storage, Use, or Consumption Presumed**

(a) A sale of tangible personal property by a person for delivery in this state is presumed to be a sale for storage, use, or consumption in this state unless a resale or exemption certificate is accepted by the seller.

(b) A sale is exempt if the seller receives in good faith from a purchaser, who is in the business of selling, leasing, or renting taxable items, a resale



certificate stating that the property is acquired for the purpose of selling, leasing, or renting it in the regular course of business or for the purpose of transferring it as an integral part of a taxable service performed in the regular course of business.

(c) A sale is exempt if the seller receives in good faith from a purchaser an exemption certificate stating qualifications for an exemption provided in Subchapter H of this chapter.<sup>1</sup>

(d) Properly executed resale or exemption certificates should be in possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of these certificates within 60 days from the date written notice requiring possession of them is given to the seller by the comptroller, deductions claimed by the seller that require delivery of the certificates shall be disallowed. If the seller acquires certificates within the 60-day period, the comptroller may verify the reason or basis for exemption claimed in the certificates before allowing any deductions. A deduction may not be granted on the basis of certificates obtained after the 60-day period.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 558, ch. 31, art. 15, § 3, eff. Oct. 2, 1984.]

<sup>1</sup> Section 151.301 et seq.

SUBCHAPTER H. EXEMPTIONS

§ 151.304. Occasional Sales

[See Tax Code Pamphlet for text of (a)]

(b) In this section, "occasional sale" means:

- (1) one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;
- (2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;
- (3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer; or
- (4) the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services.

[See Tax Code Pamphlet for text of (c) and (d)]

(e) This section does not apply to a rental or lease of a taxable item.

(f) Subsection (b)(1) of this section does not apply to a sale made by a person who holds a permit issued pursuant to the provisions of this chapter.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 539, ch. 31, art. 7, § 10, eff. Oct. 2, 1984.]

§ 151.308. Items Taxed by Other Law

The following are exempted from the taxes imposed by this chapter:

- (1) oil as taxed by Chapter 202 of this code;
- (2) sulphur as taxed by Chapter 203 of this code;
- (3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 153 of this code;
- (4) cement as taxed by Chapter 181 of this code;
- (5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152 of this code;
- (6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 202, Alcoholic Beverage Code; and
- (7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club.

[Amended by Acts 1984, 68th Leg., 2nd C.S. p. 505, ch. 31, art. 2, § 23, eff. Oct. 2, 1984.]

§ 151.3101. Amusement Services Exemptions

Amusement services are exempted from this chapter if provided by this state, a municipality, county, school district, special district, or other political subdivision of this state or the United States if provided in a National Historical District as determined by the National Register of Historic Places, Heritage Conservation, and Recreation Service (HCRS) of the United States Department of the Interior, by a nonprofit corporation or association if the proceeds do not go to the benefit of an individual except as a part of the services of a purely public charity, by a nonprofit corporation organized under the laws of this state for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of livestock and no individual received a private benefit, or by an educational, religious, law enforcement association, or charitable organization.

[Acts 1984, 68th Leg., 2nd C.S., p. 539, ch. 31, art. 7, § 11, eff. Oct. 2, 1984.]

§ 151.311. Property Used for Improvement of Realty of an Exempt Organization

Tangible personal property purchased by a contractor for use in the performance of a contract for the improvement of realty for an organization exempted from the taxes imposed by this chapter by Section 151.309(4) or (5) or Section 151.310 of this code is exempted from the taxes imposed by this chapter to the extent of the value of the tangible

personal property used or consumed or both in the performance of the contract.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 551, ch. 31, art. 12, § 1, eff. Oct. 2, 1984.]

Section 2 of art. 12 of the 1984 amendatory act provides:

"(a) The receipts from the sale, use, or rental of and the storage, use, or consumption in this state of tangible personal property that was exempt from the tax imposed by Chapter 151, Tax Code, prior to the effective date of this article and the exemption of which is removed by this article are exempt from the tax imposed by Chapter 151, Tax Code, if:

"(1) the tangible personal property is used for the performance of a written contract entered into prior to the date this article takes effect if the contract is not subject to change or modification by reason of the tax; or

"(2) the tangible personal property is used pursuant to an obligation of a bid or bids submitted prior to the date this article takes effect if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this article; and

"(3) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the comptroller within 60 days from the date this article takes effect.

"(b) The exemption provided by this section shall have no effect after September 30, 1987."

#### § 151.3111. Services on Certain Exempted Personal Property

(a) A service that is performed on tangible personal property that, if sold, leased, or rented, at the time of the performance of the service, would be exempted under this chapter because of the nature of the property, its use, or a combination of its nature and use, is exempted from this chapter.

(b) Subsection (a) of this section does not apply to the performance of a service on:

(1) tangible personal property that would be exempted solely because of the exempt status of the seller of the property;

(2) tangible personal property that is exempted solely because of the application of Section 151.303, 151.304, or 151.306 of this code; or

(3) motor vehicles, trailers, or semitrailers as defined, taxed, or exempted by Chapter 152 of this code.

(c) A taxable service performed on a motor vehicle, trailer, or semitrailer exempted under Section 152.086, 152.087, or 152.088 of this code is exempted from the taxes imposed by this chapter. A taxable service performed on a motor vehicle held for rental in the regular course of business, but not rented, or held for sale in the regular course of business is exempted from the taxes imposed by this chapter.

[Acts 1984, 68th Leg., 2nd C.S., p. 540, ch. 31, art. 7, § 12, eff. Oct. 2, 1984.]

#### § 151.314. Food and Food Products

[See Tax Code Pamphlet for text of (a) and (b)]

(c) "Food products" shall not include:

(1) medicines, tonics, vitamins, and medicinal preparations in any form;

(2) carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid or frozen form and ice and candy;

(3) foods and drinks (which include meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared, or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafeterias, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle.

[See Tax Code Pamphlet for text of (d) to (f)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 543, ch. 31, art. 7, § 20, eff. Oct. 2, 1984.]

#### § 151.316. Agricultural Items

The following items are exempted from the taxes imposed by this chapter:

(1) horses, mules, and work animals;

(2) animal life the products of which ordinarily constitute food for human consumption;

(3) feed for farm and ranch animals;

(4) feed for animals that are held for sale in the regular course of business;

(5) seeds and annual plants the products of which:

(A) ordinarily constitute food for human consumption;

(B) are to be sold in the regular course of business; or

(C) are used to produce feed for animals exempted by this section;

(6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:

(A) food for human consumption;

(B) feed for animal life; or

(C) other agricultural products to be sold in the regular course of business;

(7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business; and

(8) machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing the producer's own products.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 545, ch. 31, art. 9, § 1, eff. Oct. 2, 1984.]

#### § 151.318. Property Used in Manufacturing

(a) The following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation; and

(3) services performed directly on the product being manufactured prior to its distribution for sale and for the purpose of making the product more marketable.

[See Tax Code Pamphlet for text of (b) to (d)]

(e) This section does not apply to any taxable item rented or leased to a person engaged in manufacturing.

(f) In this section, machinery, equipment, or replacement parts or their accessories have a useful life when new of six months or less only if it is entirely consumed or without value within six months after the date it was purchased new.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 541, ch. 31, art. 7, §§ 13, 19, eff. Oct. 2, 1984.]

**§ 151.319. Newspapers and Property Used in Newspaper Publication**

(a) Repealed by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 12, § 3, eff. Oct. 2, 1984.

[See Tax Code Pamphlet for text of (b) to (f)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 12, § 3, eff. Oct. 2, 1984.]

**§ 151.320. Repealed by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 12, § 4, eff. Oct. 2, 1984.**

**§ 151.3261. Original Visual or Audiovisual Materials**

(a) In this section, "audio or audiovisual works" includes, but is not limited to, sound recordings, videotapes, and motion pictures.

(b) Any master tape, disc, film, or other object in which audio or audiovisual works are first fixed for later use in the manufacture of copies of the works is exempted from the taxes imposed by this chapter.

[Acts 1984, 68th Leg., 2nd C.S., p. 541, ch. 31, art. 7, § 14, eff. Oct. 2, 1984.]

**§ 151.328. Aircraft**

[See Tax Code Pamphlet for text of (a) and (b)]

(c) In this section, "aircraft" does not include a rocket or missile, but does include:

- (1) a fixed wing, heavier-than-air craft that is driven by propeller or jet and supported by the dynamic reaction of the air against its wings;
- (2) a helicopter; and

(3) an airplane flight simulator approved by the Federal Aviation Administration for use as a Phase II or higher flight simulator under Appendix H, 14 C.F.R. Part 121.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 555, ch. 31, art. 14, § 1, eff. Oct. 2, 1984.]

**§ 151.335. Coin-Operated Services**

(a) Amusement and personal services provided through coin-operated machines that are operated by the consumer are exempt from the taxes imposed by this chapter.

(b) This section does not apply to the sale of tangible personal property or to the purchase of an admission through the use of a coin-operated machine.

[Acts 1984, 68th Leg., 2nd C.S., p. 541, ch. 31, art. 7, § 15, eff. Oct. 2, 1984.]

**§ 151.338. Environment and Conservation Services**

The services involved in the repair, remodeling, maintenance, or restoration of tangible personal property are not taxable under this chapter if the repair, remodeling, maintenance, or restoration is required by statute, ordinance, order, rule, or regulation of any commission, agency, court, or political, governmental, or quasi-governmental entity in order to protect the environment or to conserve energy.

[Acts 1984, 68th Leg., 2nd C.S., p. 542, ch. 31, art. 7, § 16, eff. Oct. 2, 1984.]

**§ 151.339. Preexisting Contracts and Bids**

The receipts from the sale, use, or rental of and the storage, use, or consumption in this state of taxable services are exempt from the tax imposed by this chapter, if:

- (1) the services are used for the performance of a written contract entered into prior to the date this chapter takes effect if the contract is not subject to change or modification by reason of the tax; or
- (2) the services are used pursuant to an obligation of a bid or bids submitted prior to the date this chapter takes effect if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this chapter; and
- (3) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the comptroller within 60 days from the date this chapter takes effect.

The exemption provided by this section shall have no effect after September 30, 1987.

[Acts 1984, 68th Leg., 2nd C.S., p. 542, ch. 31, art. 7, § 18, eff. Oct. 2, 1984.]

SUBCHAPTER I. REPORTS, PAYMENTS, AND  
METHODS OF REPORTING

§ 151.405. Other Due Dates Set by Comptroller

(a) The comptroller may require a seller, retailer, or purchaser to file a return or pay the taxes imposed by this chapter for a period other than a monthly period if necessary to ensure the payment or to facilitate the collection of the taxes due.

(b) A requirement under Subsection (a) of this section may by rule be made generally applicable to retailers providing amusement services at locations other than the regular business establishment of the retailer or to retailers who provide amusement services and who have no regular business establishment in this state.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 542, ch. 31, art. 7, § 17, eff. Oct. 2, 1984.]

§ 151.411. Method of Reporting: Sellers Having  
Sales Below Taxable Amount

(a) If not less than 50 percent of the total receipts of a seller from the sale of tangible personal property and taxable services come from separate transactions in which the sales price is 12 cents or less, the seller may exclude the receipts from these transactions when reporting and paying the sales tax.

[See Tax Code Pamphlet for text of (b) and (c)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 552, ch. 31, art. 13, § 3, eff. Oct. 2, 1984.]

§ 151.416. Commingled Receipts and Tax

A seller who has an accounting system under which the taxes collected under this chapter are commingled with the receipts from the sales of taxable items may compute his taxable receipts by:

(1) subtracting from the total receipts of the seller the receipts from the sales of items that are exempted or are specifically excluded from the taxes imposed by this chapter to obtain a remainder consisting of the commingled receipts from taxable sales and the taxes collected; and

(2) dividing this remainder by 1.04125 to obtain a quotient that is the taxable receipts that may be reported under Section 151.410 of this code.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 553, ch. 31, art. 13, § 4, eff. Oct. 2, 1984.]

CHAPTER 152. TAXES ON SALE, RENTAL,  
AND USE OF MOTOR VEHICLES

SUBCHAPTER B. IMPOSITION OF TAX

§ 152.021. Retail Sales Tax

(a) A tax is imposed on every retail sale of every motor vehicle sold in this state. The tax is an obligation of and shall be paid by the purchaser of the motor vehicle.

(b) The tax rate is five percent of the total consideration.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 464, ch. 31, art. 1, § 6, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

§ 152.022. Tax on Motor Vehicle Purchased Outside This State

(a) A use tax is imposed on a motor vehicle purchased at retail sale outside this state and used on the public highways of this state by a Texas resident or other person who is domiciled or doing business in this state.

(b) The tax rate is five percent of the total consideration.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 464, ch. 31, art. 1, § 7, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

§ 152.026. Tax on Gross Rental Receipts

(a) A tax is imposed on the gross rental receipts from the rental of a rented motor vehicle.

(b) The tax rate is five percent of the gross rental receipts.

[See Tax Code Pamphlet for text of (c) and (d)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 465, ch. 31, art. 1, § 8, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

§ 152.027. Tax on Metal Dealer Plates

(a) A use tax is imposed on each person to whom is issued a metal dealer's plate authorized by Article 6686, Revised Civil Statutes of Texas, 1925, as amended.

(b) The tax is \$25 for each plate issued.

(c) The tax imposed by this section is in lieu of any other tax imposed by this chapter.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 465, ch. 31, art. 1, § 9, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

§ 152.028. Use Tax on Motor Vehicle Brought  
Back Into State

(a) A use tax is imposed on the operator of a motor vehicle that was purchased tax-free under Section 152.090 of this code and that is brought back into this state for use on the public highways of this state. The tax is imposed at the time the motor vehicle is brought back into this state.

(b) The tax rate is five percent of the total consideration.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 465, ch. 31, art. 1, § 10, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

SUBCHAPTER D. TAX ENFORCEMENT PROCEDURES

§ 152.062. Required Affidavits

(a) The persons obligated by this chapter to pay taxes on the transaction shall file a joint affidavit with the tax assessor-collector of the county in which the application for registration and for a Texas certificate of title is made.

(b) The affidavit must be in the following form:

(1) if a motor vehicle is sold, the seller and purchaser shall make a joint affidavit stating the then value in dollars of the total consideration for the vehicle; or

(2) if the ownership of a motor vehicle is transferred as the result of a gift or even exchange, the principal parties shall make a joint affidavit stating the nature of the transaction.

(c) If a party to a sale, even exchange, or gift is a corporation, the president, vice-president, secretary, manager, or other authorized officer of the corporation shall make the affidavit for the corporation.

(d) The comptroller shall promulgate rules to govern the enforcement of this section. The rules shall include standard value guidelines to assist a tax assessor-collector in determining the truth and accuracy of material facts in a joint affidavit.

(e) The tax assessor-collector shall examine each joint affidavit for the purpose of determining the truth and accuracy of the information it contains. If the tax assessor-collector or the comptroller has reason to question the truth of the information in an affidavit, or if any material fact fails to meet the guidelines promulgated by the comptroller, the tax assessor-collector or the comptroller shall require any party to the affidavit to furnish substantiation of information contained in the affidavit.

(f) The tax assessor-collector shall immediately report to the nearest peace officer and to the comptroller, the name and address of each party whose name is signed on a joint affidavit found to be false in any material fact.

(g) The tax assessor-collector shall keep a copy of each affidavit and any substantiating materials required to be furnished in connection therewith until it is called for by the comptroller for auditing or by any court of competent jurisdiction.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 495, ch. 31, art. 1, § 45, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

SUBCHAPTER G. DISPOSITION OF TAXES

§ 152.122. Allocation of Tax

*Text of section effective until September 1, 1985*

The comptroller shall deposit one-fourth of the funds received under Section 152.121 of this code to

the credit of the foundation school fund and the remaining three-fourths to the credit of the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 347, ch. 28, art. II, part B, § 2, eff. September 1, 1984.]

*For text of section effective until June 1, 1985, see § 152.122, Tax Code Pamphlet*

*For text of section effective September 1, 1985, see § 152.122, post*

§ 152.122. Allocation of Tax

*Text of section effective September 1, 1985*

(a) The comptroller shall deposit the funds received under Section 152.121 of this code as follows:

(1)  $\frac{1}{4}$  to the credit of the foundation school fund;

(2)  $\frac{1}{10}$  to the credit of the state highway fund; and

(3) the remaining funds to the credit of the general revenue fund with subsequent transfers to the state highway fund as provided by Subsection (b) of this section.

(b) In addition to the amounts deposited under Subsection (a)(3) of this section, the comptroller shall transfer from the general revenue fund to the state highway fund an amount equal to one-eighth of the amount collected under Chapter 153 of this code as taxes on motor fuels used to propel motor vehicles over the public roadways. The transfer to the state highway fund under this subsection shall be made at the same time as allocations to the state highway fund are made under Chapter 153 of this code.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 347, ch. 28, art. II, part B, § 2, eff. September 1, 1984; Acts 1984, 68th Leg., 2nd C.S., p. 492, ch. 31, art. 1, § 42, eff. Sept. 1, 1985.]

*For text of section effective until September 1, 1985, see § 152.122, ante*

CHAPTER 153. MOTOR FUEL TAXES

SUBCHAPTER B. GASOLINE TAX

Sec. 153.1195. Refunds and Credits for Bad Debts.

SUBCHAPTER C. DIESEL FUEL TAX

153.2225. Refunds and Credits for Bad Debts.

SUBCHAPTER B. GASOLINE TAX

§ 153.102. Tax Rates

(a) The gasoline tax rate is 10 cents for each gross or volumetric gallon or fractional part sold or used in this state except as provided by Subsection (b) of this section.

(b) The gasoline tax rate for gasoline sold to a transit company for exclusive use in its transit carrier vehicles under an exemption certificate promulgated by the comptroller is nine cents for each gallon.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 462, ch. 31, art. 1, § 1, eff. Aug. 1, 1984.]

Section 1(b) of art. 18 of the 1984 amendatory act provides:

"(b) This Act takes effect only if H.B. 72, 68th Legislature, 2nd Called Session, becomes law, regardless of the relative effective dates of the two Acts. If H.B. 72 does not become law, this Act has no effect."

H.B. 72 was enacted as Acts 1984, 68th Leg., 2nd C.S., p. 269, ch. 28.

The 1984 amendatory act was generally effective October 2, 1984, 90 days after date of adjournment, but art. 1, § 48(a) of said act stated that, unless otherwise provided, article 1 was effective August 1, 1984. The 1984 amendatory act, however, failed to receive the vote required by Const. Art. 3, § 39, to become effective earlier than the general 90-day date. Acts 1984, 68th Leg., 2nd C.S., p. 561, ch. 32, § 1, however, which did receive the vote required by Const. Art. 3, § 39, provides:

"Notwithstanding the failure of H.B. 122, 68th Legislature, 2nd Called Session [chapter 31], to receive the necessary number of votes required by Article III, Section 39, of the Texas Constitution, concerning the effective date of laws, for that bill to have immediate effect, those sections of Article 1 of H.B. 122 that have an August 1, 1984, effective date take effect on that date."

#### § 153.1195. Refunds and Credits for Bad Debts

(a) A permitted distributor may take a credit against taxes to be remitted to the comptroller or claim a refund on taxes paid to the comptroller if:

- (1) the distributor has paid the taxes imposed by this subchapter on gasoline sold on account;
- (2) the distributor determines that the account is uncollectable and worthless; and
- (3) the account is written off as a bad debt on the accounting books of the distributor.

(b) The amount of the credit that may be taken or refund that may be claimed under Subsection (a) of this section may equal but may not exceed the amount of taxes paid on the gasoline to which the written-off account applies.

(c) If, after a credit is taken or a refund is paid under Subsection (a) of this section, the account on which the credit or refund was based is paid, or if the comptroller otherwise determines that the credit or refund was not authorized by Subsection (a) of this section, the unpaid taxes shall be paid by the distributor taking the credit or to whom the refund was made, plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 of this code beginning on the day that the credit was taken or the refund was made.

(d) This section does not apply to a sale of gasoline that is delivered into the fuel supply tank of a motor vehicle or a motorboat and for which payment is made through the use and acceptance of a credit card.

[Acts 1984, 68th Leg., 2nd C.S., p. 493, ch. 31, art. 1, § 43, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 addition of this section, see note following § 153.102.

#### § 153.123. Gasoline and Alcohol Mixtures: Special Fund and Tax Credits and Payments

[See Tax Code Pamphlet for text of (a) to (c)]

(d) A distributor may claim a credit on the first sale or use of the gasoline and alcohol mixture described in Subsection (e) of this section or on the gasoline used for mixing with ethyl alcohol if the mixture meets the specifications described in Subsection (e) of this section, in the amount per gallon specified in Subsections (a) and (b) of this section. The distributor may take the credit on his monthly Texas gasoline distribution report. The comptroller shall, on or before the 25th day of the last month of each quarter of the fiscal year, transfer the total amount of credits allowed the previous quarter from the general revenue fund to the funds to which the credits would have been allocated if they had been originally collected as tax and allocated under Section 153.503 of this code. If a claim is based on gasoline used for mixing with ethyl alcohol, the comptroller may require the person making the claim to include in the claim the total number of gallons of ethyl alcohol produced or purchased and not thereafter resold or distributed as ethyl alcohol and any other information deemed necessary. The forms to be used, the procedure for filing, and the time within which a claim for credit must be instituted are the same as those set forth for claims for refund of taxes provided in Sections 153.120 and 153.121 of this code, with any modifications that the comptroller determines to be appropriate to accomplish the purposes of this section.

(e) The mixture of gasoline and alcohol for which credits or payments shall be made under this section shall meet the following specifications:

- (1) the mixture must contain at least 10 percent ethyl alcohol;
- (2) the alcohol added to the gasoline must have been at least 192 proof when added; and
- (3) the alcohol added to the gasoline must have been produced or distilled from a renewable source only.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 160, ch. 10, art. 2, § 6, eff. Sept. 1, 1984.]

### SUBCHAPTER C. DIESEL FUEL TAX

#### § 153.202. Tax Rates

(a) The diesel fuel tax rate is 10 cents for each gross or volumetric gallon or fractional part sold or used in this state except as provided by Subsection (b) of this section.

(b) The diesel fuel tax rate for diesel fuel sold by a permitted supplier to a transit company for exclusive use in its transit vehicles under an exemption

certificate issued by the comptroller is 9.5 cents for each gallon.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 462, ch. 31, art. 1, § 2, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

**§ 153.210. Diesel Tax Prepaid User Permit**

(a) A diesel tax prepaid user permit authorizes a person whose use of diesel fuel is predominantly for nonhighway use, but who owns or operates one or more passenger cars or light trucks only in the weight class shown in this section to elect to prepay an annual tax on the fuel delivered from his own tax-free storage rather than obtain a bonded user permit. If he elects to obtain a diesel tax prepaid user permit, he must prepay the tax at the rate prescribed for each motor vehicle based on the class of registered gross weight. A person whose purchases of diesel fuel are predominantly for highway use does not qualify for a diesel tax prepaid user permit.

(b) The vehicle classes and amounts of tax are:

Class A Less than 2,500 pounds	.....	\$31
Class B 2,500 to 3,500 pounds	.....	55
Class C 3,501 to 4,500 pounds	.....	69
Class D 4,501 to 7,000 pounds	.....	83

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 463, ch. 31, art. 1, § 3, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

**§ 153.222. Refunds of Taxes Paid on Excepted Uses of Diesel Fuel**

[See Tax Code Pamphlet for text of (a) to (c)]

(d) If the quantity of diesel fuel used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of diesel fuel consumed in those operations for tax credit or tax refund. If no separate metering device or other approved measuring method is provided, the following credit or refund procedures are authorized. A permitted supplier or bonded user who operates diesel-powered motor vehicles equipped with a power take-off or a diesel-powered auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle may be allowed a deduction from the taxable gallons used in this state in each motor vehicle so equipped. The comptroller shall determine the percentage of the deduction. A user who is required to pay the tax on diesel fuel used in motor vehicles so equipped may file a claim for a refund not to exceed the percentage allowed by the

comptroller of the total taxable fuel used in this state in each motor vehicle so equipped.

[See Tax Code Pamphlet for text of (e)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 496, ch. 31, art. 1, § 46, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

**§ 153.225. Refunds and Credits for Bad Debts**

(a) A permitted supplier may take a credit against taxes to be remitted to the comptroller or claim a refund on taxes paid to the comptroller if:

- (1) the supplier has paid the taxes imposed by this subchapter on diesel fuel sold on account;
- (2) the supplier determines that the account is uncollectable and worthless; and
- (3) the account is written off as a bad debt on the accounting books of the supplier.

(b) The amount of the credit that may be taken or refund that may be claimed under Subsection (a) of this section may equal but may not exceed the amount of taxes paid on the diesel fuel to which the written-off account applies.

(c) If, after a credit is taken or a refund is paid under Subsection (a) of this section, the account on which the credit or refund was based is paid, or if the comptroller otherwise determines that the credit or refund was not authorized by Subsection (a) of this section, the unpaid taxes shall be paid by the supplier taking the credit or to whom the refund was made, plus a penalty of 10 percent of the amount of the unpaid taxes and interest at the rate provided by Section 111.060 of this code beginning on the day that the credit was taken or the refund was made.

(d) This section does not apply to a sale of diesel fuel that is delivered into the fuel supply tank of a motor vehicle or motorboat and for which payment is made through the use and acceptance of a credit card.

[Acts 1984, 68th Leg., 2nd C.S., p. 494, ch. 31, art. 1, § 44, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 addition of this section, see note following § 153.102.

**SUBCHAPTER D. LIQUEFIED GAS TAX**

**§ 153.301. Tax Imposed; Rate**

(a) A tax is imposed on the use of liquefied gas for the propulsion of motor vehicles on the public highways of this state.

(b) The liquefied gas tax rate is 10 cents a gallon.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 463, ch. 31, art. 1, § 4, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

**§ 153.305. Liquefied Gas Tax Decal Permit**

(a) A user of liquefied gas for the propulsion of a motor vehicle on the public highways of Texas shall

pay in advance annually on each motor vehicle owned, operated, and licensed in Texas by him, a tax based on the registered gross weight and mileage driven the previous year in the following schedule:

	Less than 5,000 miles	5,000 to 9,999 miles	10,000 miles and over
Class A: Less than 4,000 pounds	\$48	\$96	\$144
Class B: 4,000 to 10,000 pounds	54	108	168
Class C: 10,001 to 15,000 pounds	78	156	240
Class D: 15,001 to 27,500 pounds	84	168	336
Class E: 27,501 to 43,500 pounds	114	228	456
Class F: 43,501 pounds and over	120	240	600

[See Tax Code Pamphlet for text of (b)]

(c) The following special use liquefied gas tax decal and tax shall be required for the types of vehicles described below:

Class T: Transit carrier vehicles operated by a transit company ..... \$660

Class Y: Motor vehicles designed for carrying fewer than 10 passengers and used for the transportation of persons for compensation ..... 408

[See Tax Code Pamphlet for text of (d)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 463, ch. 31, art. 1, § 5, eff. Aug. 1, 1984.]

For provisions as to effective date of the 1984 amendment of this section, see note following § 153.102.

#### SUBCHAPTER F. ALLOCATION OF TAXES

##### § 153.501. Tax Administration Fund

[See Tax Code Pamphlet for text of (a)]

(b) The unexpended portion of the special fund shall revert, at the end of the fiscal year, to the other funds to which revenue is allocated by this subchapter in proportion to the amounts originally derived from the respective sources.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 158, ch. 10, art. 2, § 1, eff. Sept. 1, 1984.]

##### § 153.502. Allocation of Unclaimed Refundable Gasoline Taxes

(a) On or before the first workday after the end of each of the first three quarters of the fiscal year and on or before August 31 of each year the comptroller, after making the deductions for refund purposes, shall determine as accurately as possible, for the period since the latest determination under this subsection, the number of gallons of fuel used in motorboats on which the gasoline tax has been paid

to this state, and on which refund of the tax has not been made and against which limitation has run for filing claim for refund of the tax. From the number of gallons so determined the comptroller shall compute the amount of taxes that would have been refunded under the law had refund claims been filed in accordance with the law.

[See Tax Code Pamphlet for text of (b)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 158, ch. 10, art. 2, § 2, eff. Sept. 1, 1984.]

##### § 153.503. Allocation of Gasoline Tax

(a) On or before the first workday after the end of each of the first three quarters of the fiscal year and on August 31 of each year the comptroller, after making all deductions for refund purposes and for the funds derived from unclaimed refunds, shall allocate the net remainder of the taxes collected under Subchapter B of this chapter<sup>1</sup> as follows:

(1) one-fourth of the tax shall be deposited to the credit of the available school fund;

(2) one-half of the tax shall be deposited to the credit of the state highway fund for the construction and maintenance of the state road system under existing law; and

(3) from the remaining one-fourth of the tax the comptroller shall:

(A) deposit to the credit of the county and road district highway fund all the remaining tax receipts until a total of \$7,300,000 has been credited to the fund each fiscal year; and

(B) after the amount required to be deposited to the county and road district highway fund has been deposited, deposit to the credit of the state highway fund the remainder of the one-fourth of the tax, the amount to be provided on the basis of allocations made each quarter of the fiscal year, which sum shall be used by the State Department of Highways and Public Transportation for the construction, improvement, and maintenance of farm-to-market roads.

(b) All receipts due the available school fund which are in the general revenue fund on August 31 of each fiscal year shall be credited to the available school fund on August 31 of each fiscal year.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 158, ch. 10, art. 2, § 3, eff. Sept. 1, 1984; Acts 1984, 68th Leg., 2nd C.S., p. 252, ch. 26, § 2, eff. Oct. 2, 1984.]

<sup>1</sup>Section 153.101 et seq.

##### § 153.504. Allocation of Diesel Fuel Tax

On or before the first workday after the end of each of the first three quarters of the fiscal year and on August 31 the comptroller, after making deductions for refund purposes, and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter D of this chapter as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and



(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 159, ch. 10, art. 2, § 4, eff. Sept. 1, 1984.]

**§ 153.505. Allocation of Liquefied Gas Tax**

On or before the first workday after the end of each of the first three quarters of the fiscal year and on August 31 the comptroller, after making deductions for refund purposes and for the administration and enforcement of this chapter, shall allocate the remainder of the taxes collected under Subchapter B of this chapter, in the proportions as follows:

(1) one-fourth of the taxes shall be deposited to the credit of the available school fund; and

(2) three-fourths of the taxes shall be deposited to the credit of the state highway fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 160, ch. 10, art. 2, § 5, eff. Sept. 1, 1984.]

**CHAPTER 154. CIGARETTE TAX**

**SUBCHAPTER B. IMPOSITION AND RATE OF TAX**

**§ 154.021. Imposition and Rate of Tax**

*Text of section effective until September 1, 1985*

(a) A tax is imposed on a person who uses or disposes of cigarettes in this state.

(b) The tax rates are:

(1) \$9.75 per thousand on cigarettes weighing three pounds or less per thousand; and

(2) \$11.85 per thousand on cigarettes weighing more than three pounds per thousand.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 497, ch. 31, art. 2, § 1, eff. Oct. 2, 1984.]

*For text of section effective September 1, 1985, see § 154.021, post*

**§ 154.021. Imposition and Rate of Tax**

*Text of section effective September 1, 1985*

(a) A tax is imposed on a person who uses or disposes of cigarettes in this state.

(b) The tax rates are:

(1) \$10.25 per thousand on cigarettes weighing three pounds or less per thousand; and

(2) \$12.35 per thousand on cigarettes weighing more than three pounds per thousand.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 497, ch. 31, art. 2, § 1, eff. Oct. 2, 1984, § 2, eff. Sept. 1, 1985.]

*For text of section effective until September 1, 1985, see § 154.021, ante*

**SUBCHAPTER J. NATURE OF TAX AND DISPOSITION OF FUNDS**

**§ 154.603. Disposition of Revenue**

(a) After the deduction for the enforcement fund, the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

(1) 18.75 percent to the foundation school fund; and

(2) 81.25 percent to the general revenue fund.

*Text of (b) effective until September 1, 1985*

(b) The revenue remaining after deduction for the enforcement fund and allocation under Subsection (a) of this section is allocated:

(1) 50 cents per 1,000 cigarettes to the state parks fund;

(2) 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund (this allocation expires on August 31, 1983); and

(3) the remainder to the general revenue fund.

*Text of (b) effective September 1, 1985*

(b) The revenue remaining after deduction for the enforcement fund and allocation under Subsection (a) of this section is allocated:

(1) 50 cents per 1,000 cigarettes to the state parks fund;

(2) 50 cents per 1,000 cigarettes to the local parks, recreation and open space fund; and

(3) the remainder to the general revenue fund.

*[See Tax Code Pamphlet for text of (c) and (d)]*

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 348, ch. 28, art. II, part B, § 3, eff. Sept. 1, 1984; Acts 1984, 68th Leg., 2nd C.S., p. 498, ch. 31, art. 2, § 3, eff. Oct. 2, 1984, § 4, eff. Sept. 1, 1985.]

**CHAPTER 155. CIGARS AND TOBACCO PRODUCTS TAX**

**SUBCHAPTER B. IMPOSITION AND RATE OF TAX**

**Sec.**  
155.021. Tax Imposed on Cigars.  
155.0211. Tax Imposed on Certain Tobacco Products.

**SUBCHAPTER A. GENERAL PROVISIONS**

**§ 155.001. Definitions**

In this chapter:

*[See Tax Code Pamphlet for text of (1) and (2)]*

(3) "Tobacco product" means:

(A) a cigar;

(B) a cheroot;

(C) a stogie;

(D) smoking tobacco, including granulated, plug-cut, crimp-cut, ready-rubbed, and any form of tobacco suitable for smoking in a pipe or cigarette;

(E) chewing tobacco, including Cavendish, Twist, plug, scrap, and any kind of tobacco suitable for chewing; or

(F) an article or product made of tobacco or a tobacco substitute, but does not include a cigarette.

[See Tax Code Pamphlet for text of (4) to (13)]

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 500, ch. 31, art. 2, § 7, eff. Oct. 2, 1984.]

#### SUBCHAPTER B. IMPOSITION AND RATE OF TAX

##### § 155.021. Tax Imposed on Cigars

(a) A tax is imposed on each person who makes a first sale of cigars.

(b) The tax rates are:

(1) one cent per 10 or fraction of 10 on cigars weighing three pounds or less per thousand;

(2) \$7.50 per thousand on cigars that:

(A) weigh more than three pounds per thousand; and

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for 3.3 cents or less each;

(3) \$11 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain no substantial amount of nontobacco ingredients; and

(4) \$15 per thousand on cigars that:

(A) weigh more than three pounds per thousand;

(B) sell at factory list price, exclusive of any trade discount, special discount, or deal, for more than 3.3 cents each; and

(C) contain a substantial amount of nontobacco ingredients.

(c) Cigars taxed under Subsections (b)(3) and (b)(4) of this section are presumed to contain a substantial amount of nontobacco ingredients unless the report on the cigars required by Section 155.111 of this code is accompanied by an affidavit stating that specific cigars described in the report do not contain sheet wrapper, sheet binder, or sheet filler. If the manufacturer prepares the report, the manufacturer shall make the affidavit. If the distributor prepares the report, the manufacturer and the distributor shall make the affidavit.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 499, ch. 31, art. 2, § 5, eff. Oct. 2, 1984.]

##### § 155.0211. Tax Imposed on Certain Tobacco Products

(a) A tax is imposed on each person who makes a first sale of tobacco products other than cigars, cheroots, or stogies.

(b) The tax rate is 25 percent of the factory list price, exclusive of any trade discount, special discount, or deal, on chewing tobacco, snuff, and smoking tobacco.

[Acts 1984, 68th Leg., 2nd C.S., p. 500, ch. 31, art. 2, § 6, eff. Oct. 2, 1984.]

#### CHAPTER 156. HOTEL, OCCUPANCY TAX

##### § 156.052. Rate of Tax

The rate of the tax imposed by this chapter is four percent of the price paid for a room in a hotel.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 533, ch. 31, art. 5, § 1, eff. Oct. 2, 1984.]

#### CHAPTER 157. INTERSTATE MOTOR CARRIER SALES AND USE TAX

##### SUBCHAPTER B. IMPOSITION OF TAX

##### § 157.102. Tax Rate

(a) Except as provided in Subsections (c), (d), and (e) of this section, the payment of the tax is the responsibility of the motor carrier operating the motor vehicle and the tax rate on an interstate motor vehicle shall be calculated as follows:

(1) The carrier's total miles operated in Texas by interstate truck-tractors and interstate commercial motor vehicles during the preceding year is divided by the total miles operated by the same interstate truck-tractors and interstate commercial motor vehicles operated in Texas during the preceding year;

(2) The percentage calculated in Subdivision (1) of this subsection is multiplied by five percent of the purchase price of each interstate motor vehicle purchased in Texas or first brought into the State of Texas during the reporting period. If a lease price is used in this formula, charges for gasoline, maintenance, insurance, and pass-through charges, such as federal highway use tax and fees for licensing and registration, may be excluded from the lease price;

(3)(A) From the amount computed in Subdivision (2) of this subsection may be deducted the amount of sales and use tax paid on the interstate motor vehicle multiplied by the formula in Subdivision (1) of this subsection;

(B) If an operator is paying sales or use tax on lease payments, he may take the credit allowed by Paragraph (A) of this subdivision on a quarterly basis.

(b) If a motor carrier has not operated in Texas during the preceding year, it shall estimate the miles it will drive during the year and use the estimate in the calculations set forth in Subsection

(a) of this section. The carrier shall adjust any overpayments or underpayments of tax based on actual mileage in the first reporting period after a year of operation.

(c)(1) The payment of the tax is the responsibility of the motor carriers operating the motor vehicle, and the tax rate on an interstate trailer or semitrailer being purchased or first brought into Texas during a reporting period shall be calculated as follows:

(A) The number of truck-tractors operated in Texas by the motor carrier during the reporting period is divided by the total number of truck-tractors operated by a motor carrier in the reporting period;

(B) The percentage calculated in Paragraph (A) of this subdivision is multiplied by five percent of the purchase price of all trailers and semitrailers purchased during the reporting period;

(C) The amount calculated in Paragraph (B) of this subdivision is multiplied by the formula in Subsection (a)(1) of this section;

(D) From the amount calculated in Paragraph (C) of this subdivision shall be deducted the amount of sales and use taxes paid on all trailers and semitrailers purchased in the reporting period multiplied by the percentages calculated in Paragraph (A) of this subdivision and in Subsection (a)(1) of this section;

(2) However, if the motor carrier can prove that the actual number of trailers or semitrailers being purchased in Texas or first brought into Texas during a reporting period is less than the number under the formula in Subsection (c)(1) of this section, the motor carrier may pay tax on the lesser number using the formula in Subsection (a) of this section. If a motor carrier chooses to use the actual number of trailers or semitrailers purchased in Texas or first brought into Texas during a reporting period and then uses the formula for other reporting periods, the motor carrier must remit tax on trailers and semitrailers purchased during the period it used the actual count when the trailers or semitrailers are first brought into the state.

(d) If a motor carrier contracts to hire an interstate motor vehicle with a driver to transport persons or property over the carrier's routes and under the authority of the carrier's permits, the tax rate is \$25 per truck-tractor per contract and \$25 per trailer or semitrailer per contract and is the responsibility of the motor carrier operating the motor vehicle. However, if a sales and use tax of at least five percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a), (b), or (c) of this section has been paid, no tax is due on the vehicle under this subsection. This subsection may not be utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Controlling interest is defined as 50 percent of ownership.

(e) If a motor carrier contracts to use trip-leased equipment, the tax rate is \$5 per motor vehicle per contract and is the responsibility of the motor carrier operating the motor vehicle. However, if a sales and use tax of at least five percent of the purchase price of the motor vehicle has been paid or if tax under Subsection (a) of this section has been paid, no tax is due on the vehicle under this subsection. This subsection may not be utilized by a motor carrier contracting with a person being controlled or having controlling interest in the motor carrier. Controlling interest is defined as 50 percent of ownership.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 548, ch. 31, art. 11, § 1, eff. Oct. 2, 1984.]

**SUBTITLE F. FRANCHISE TAX**

**CHAPTER 171. FRANCHISE TAX**

**SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL; ALLOCATION AND APPORTIONMENT**

Sec.

171.1031. Allocation of Taxable Capital of Banking Corporation.

**SUBCHAPTER E. REPORTS AND RECORDS**

171.2021. Supplemental Banking Corporation Report.

**SUBCHAPTER F. FORFEITURE OF CORPORATE PRIVILEGES**

171.259. Banking Corporations.

**SUBCHAPTER G. FORFEITURE OF CHARTER OR CERTIFICATE OF AUTHORITY**

171.316. Banking Corporations.

**SUBCHAPTER A. TAX IMPOSED**

**§ 171.002. General Rate of Tax**

*Text of section effective May 1, 1985*

(a) The rates of the franchise tax on a corporation are:

(1) \$5.25 for each \$1,000 or fraction of \$1,000 of the corporation's taxable capital that is allocated to this state under Section 171.106 or 171.108 of this code; or

(2) \$68

(b) A corporation shall pay the tax on the basis of the rate provided by this section that results in the greater amount of tax due from the corporation to the state.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 515, ch. 31, art. 3, part D, § 1, eff. May 1, 1985.]

*For text of section effective until May 1, 1985, see § 171.002, Tax Code Pamphlet*

## § 171.078. Exemptions—Banks

**Repeal**

*This section is repealed effective May 1, 1985, by Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part B, § 1.*

Article 3, part B, § 1 of the 1984 repealing act provides, in part: "It is the intention of the legislature that by repealing this section, which provides an exemption for state and federal banking corporations, all banking corporations in this state become subject to and pay the franchise tax imposed by Chapter 171, Tax Code, as provided by this article."

Article 3, part B, § 2 of the 1984 repealing act provides:

"(a) A banking corporation that is in existence on May 1, 1985, and had a fiscal year ending in 1984 shall pay its initial franchise tax liability for the period beginning May 1, 1985, and extending through April 30, 1986, on or before March 15, 1985, and based on the same period for the calculation of its taxable capital and its business done in this state as is required of other corporations in this state. At the time of the payment of its initial franchise tax liability the banking corporation shall file an annual report as required by Section 171.202, Tax Code.

"(b) A banking corporation that is in existence on May 1, 1985, and was in existence before May 1, 1985, but did not have a corporate fiscal year ending in 1984 shall pay the franchise tax under Chapter 171, Tax Code, as if the banking corporation received its charter or its authorization to do business in this state on May 1, 1985, except that, rather than paying its initial franchise tax liability and filing its initial report within 90 days after the expiration of its first anniversary of beginning business, it shall pay the tax and file the initial report on or before March 15, 1986, based on its financial condition as of its fiscal year ending date in 1985, or, if it did not have a fiscal year ending date in 1985, as of December 31, 1985.

"(c) A banking corporation that begins business in this state on or after May 1, 1985, is subject to Chapter 171, Tax Code, in the same manner as all other corporations beginning business in this state.

"(d) The provisions of Title 2, Tax Code, relating to the administration, collection, and enforcement of and penalties and interest on the taxes imposed by Chapter 171, Tax Code, apply to this section.

"(e) This section expires on January 1, 1988, but the expiration of this section does not affect any liability to the state arising under this section and Chapter 171, Tax Code."

Article 3, part D, § 2 of the 1984 repealing act provides:

"This article takes effect May 1, 1985, except that Part A of this article takes effect January 1, 1985, and except that any payment of the franchise tax that is for the period beginning May 1, 1985, and that is required to be made before the effective date of this article shall be made according to and on the basis of the franchise tax rates to be effective on May 1, 1985."

Nonseverability of portions of 1984 repealing act, see note under § 11.02.

### SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL, ALLOCATION AND APPORTIONMENT

## § 171.103. Determination of Gross Receipts From Business Done in This State

The gross receipts of a corporation from its business done in this state is the sum of the corporation's receipts from:

- (1) each sale of tangible personal property if the property is delivered or shipped to a buyer in this state regardless of the FOB point or another condition of the sale, and each sale of tangible personal property shipped from this state to a purchaser in another state in which the seller is not subject to taxation;

- (2) each service performed in this state;
- (3) each rental of property situated in this state;
- (4) each royalty for the use of a patent or copyright in this state; and
- (5) other business done in this state.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 556, ch. 31, art. 15, § 1, eff. Oct. 2, 1984.]

## § 171.1031. Allocation of Taxable Capital of Banking Corporation

*Text of section added effective May 1, 1985*

(a) Interest and dividends received by a banking corporation are gross receipts of the banking corporation from its business done in this state if the banking corporation has its commercial domicile in this state.

(b) This section does not apply to any corporation other than a banking corporation.

(c) To the extent that this subsection does not conflict with Article 8, Chapter 9, The Texas Banking Code of 1943 (Article 342-908, Vernon's Texas Civil Statutes), the Banking Department of Texas is required to revoke the charter of any banking corporation certified by the Comptroller as being delinquent in the payment of its franchise tax.

[Acts 1984, 68th Leg., 2nd C.S., p. 508, ch. 31, art. 3, part B, § 3, eff. May 1, 1985.]

Nonseverability of portions of 1984 Act, see note under § 11.02.

## SUBCHAPTER D. PAYMENT OF TAX

## § 171.151. Period Covered by Tax

Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part B, § 2(a), (b), and (e), provides:

"(a) A banking corporation that is in existence on May 1, 1985, and had a fiscal year ending in 1984 shall pay its initial franchise tax liability for the period beginning May 1, 1985, and extending through April 30, 1986, on or before March 15, 1985, and based on the same period for the calculation of its taxable capital and its business done in this state as is required of other corporations in this state. At the time of the payment of its initial franchise tax liability the banking corporation shall file an annual report as required by Section 171.202, Tax Code.

"(b) A banking corporation that is in existence on May 1, 1985, and was in existence before May 1, 1985, but did not have a corporate fiscal year ending in 1984 shall pay the franchise tax under Chapter 171, Tax Code, as if the banking corporation received its charter or its authorization to do business in this state on May 1, 1985, except that, rather than paying its initial franchise tax liability and filing its initial report within 90 days after the expiration of its first anniversary of beginning business, it shall pay the tax and file the initial report on or before March 15, 1986, based on its financial condition as of its fiscal year ending date in 1985, or, if it did not have a fiscal year ending date in 1985, as of December 31, 1985."

"(e) This section expires on January 1, 1988, but the expiration of this section does not affect any liability to the state arising under this section and Chapter 171, Tax Code."

Acts 1984, 68th Leg., 2nd C.S., p. 516, ch. 3, art. 3, part D, § 2, provides:

"This article takes effect May 1, 1985, except that Part A of this article takes effect January 1, 1985, and except that any payment of the franchise tax that is for the period beginning May 1, 1985, and that is required to be made before the effective date of this

article shall be made according to and on the basis of the franchise tax rates to be effective on May 1, 1985."

**§ 171.152. Date on Which Payment is Due**

*[See main volume for text of (a) and (b)]*

(c) Payment of the tax covering the regular annual period is due March 15 of each year before the beginning of the regular annual period. However if the first anniversary of the date that the corporation files its charter or is granted its certificate of authority is after September 30 and before May 1, the payment of the tax covering the first regular annual period is due on the same date as the tax covering the initial period.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 162, ch. 10, art. 3, § 1, eff. Sept. 1, 1984.]

**§ 171.153. Business on Which Tax is Based**

*[See main volume for text of (a) and (b)]*

(c) The tax covering the regular annual period is based on the business done by the corporation during its fiscal year that ends in the year before the year in which the tax is due. However, if the first anniversary of the date that the corporation files its charter or is granted its certificate of authority is after September 30 and before May 1, the tax covering the first regular annual period is based on the same business on which the tax covering the initial period is based.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 162, ch. 10, art. 3, § 2, eff. Sept. 1, 1984.]

**SUBCHAPTER E. REPORTS AND RECORDS**

**§ 171.202. Annual Report**

*[See main volume for text of (a)]*

(b) The corporation shall file the report before March 16 of each year before the beginning of the regular annual period. The report shall be filed on forms supplied by the comptroller.

(c) The comptroller shall grant an extension of time for the filing of a report required by this section to any date on or before the next June 15, if a corporation:

- (1) requests the extension, on or before March 15, on a form provided by the comptroller; and
- (2) remits with the request:
  - (A) not less than 90 percent of the amount of tax reported as due on the report filed on or before June 15; or
  - (B) 100 percent of the tax paid in the previous year, but in no case less than \$55.

(d) In the case of a taxpayer whose previous return was its initial report, the optional payment provided under Paragraph (B) of Subdivision (2) of Subsection (c) of this section must be equal to an amount produced by multiplying the prior year's

payment by a ratio of 12 divided by the number of months covered by the initial report.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 163, ch. 10, art. 3, §§ 3, 4, eff. Sept. 1, 1984.]

Acts 1984, 68th Leg., 2nd C.S., p. 507, ch. 31, art. 3, part B, § 2(a), (e), provides:

"(a) A banking corporation that is in existence on May 1, 1985, and had a fiscal year ending in 1984 shall pay its initial franchise tax liability for the period beginning May 1, 1985, and extending through April 30, 1986, on or before March 15, 1985, and based on the same period for the calculation of its taxable capital and its business done in this state as is required of other corporations in this state. At the time of the payment of its initial franchise tax liability the banking corporation shall file an annual report as required by Section 171.202, Tax Code."

"(e) This section expires on January 1, 1988, but the expiration of this section does not affect any liability to the state arising under this section and Chapter 171, Tax Code."

Acts 1984, 68th Leg., 2nd C.S., p. 516, ch. 3, art. 3, part D, § 2, provides:

"This article takes effect May 1, 1985, except that Part A of this article takes effect January 1, 1985, and except that any payment of the franchise tax that is for the period beginning May 1, 1985, and that is required to be made before the effective date of this article shall be made according to and on the basis of the franchise tax rates to be effective on May 1, 1985."

**§ 171.201. Supplemental Banking Corporation Report**

*Text of section added effective May 1, 1985*

(a) At the time that a banking corporation files its annual report or its initial report under this chapter, the corporation shall file with the comptroller a supplemental report showing:

- (1) the name of each taxing unit in which the banking corporation's principal office in this state was situated as of the preceding January 1;
- (2) the property tax rate adopted by each of the taxing units listed pursuant to Subdivision (1) of this subsection for the preceding tax year;
- (3) the percentage relationship that each of the taxing units' property tax rate for the preceding tax year bears to the total of the preceding year's property tax rates of all taxing units listed pursuant to Subdivision (1) of this subsection; and
- (4) the apportionment of the banking corporation's total franchise tax liability among the taxing units listed pursuant to Subdivision (1) of this subsection, the apportionment to be determined using the percentage relationship computed in accordance with Subdivision (3) of this subsection.

(b) On or before the due date for the filing of reports under this chapter each year, each banking corporation shall file with the governing body of each taxing unit required to be listed pursuant to Subsection (a)(1) of this section a copy of its annual report required by Section 171.202 of this code, its initial report required by Section 171.201 of this code, if that report is required to be filed with the comptroller, and the report required by this section.

(c) In this chapter:

- (1) "Banking corporation" means all state and national, domestic and foreign banks, and banks organized under Section 25(a) of the Federal Re-

serve Act (12 U.S.C. 611-631) (edge corporations), but does not include a bank holding company as defined by Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. Sec. 1841).

(2) "Taxing unit" has the meaning given that term by Section 1.04(12) of this code.

[Acts 1984, 68th Leg., 2nd C.S., p. 509, ch. 31, art. 3, part B, § 4, eff. May 1, 1985.]

Nonseverability of portions of 1984 Act, see note under § 11.02.

#### SUBCHAPTER F. FORFEITURE OF CORPORATE PRIVILEGES

##### § 171.251. Forfeiture of Corporate Privileges

The comptroller shall forfeit the corporate privileges of a corporation on which the franchise tax is imposed if the corporation:

(1) does not file, in accordance with this chapter and within 90 days after the date it is due, an initial report required by Section 171.201 of this code;

(2) does not file, in accordance with this chapter and before June 16 of the year in which it is due, an annual report that is required by Section 171.202 of this code;

(3) does not pay, before June 16 of the year in which it is due, a tax imposed by this chapter that is due under Section 171.152(c) of this code on the preceding March 15 or does not pay, before June 16, a penalty imposed by this chapter relating to that tax;

(4) does not pay, within 90 days after the date it is due, a tax imposed by this chapter that is due under Section 171.152 of this code on a date other than March 15 or does not pay, within those 90 days, a penalty imposed by this chapter relating to that tax; or

(5) does not permit the comptroller, the state auditor, or the state auditor's authorized representative to examine under Section 171.211 of this code the corporation's records.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 163, ch. 10, art. 3, § 5, eff. Sept. 1, 1984.]

##### § 171.259. Banking Corporations

*Text of section added effective May 1, 1985*

This subchapter does not apply to a banking corporation.

[Acts 1984, 68th Leg., 2nd C.S., p. 510, ch. 31, art. 3, part B, § 5, eff. May 1, 1985.]

Nonseverability of portions of 1984 Act, see note under § 11.02.

#### SUBCHAPTER G. FORFEITURE OF CHAPTER OR CERTIFICATE OF AUTHORITY

##### § 171.309. Forfeiture by Secretary of State

The secretary of state may forfeit the charter or certificate of authority of a corporation if:

(1) the secretary receives the comptroller's certification under Section 171.302 of this code;

(2) the corporation does not revive its forfeited corporate privileges within 120 days after the date that the corporate privileges were forfeited; and

(3) the corporation does not have assets from which a judgment for any tax, penalty, or court costs imposed by this chapter may be satisfied.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 164, ch. 10, art. 3, § 6, eff. Sept. 1, 1984.]

##### § 171.316. Banking Corporations

*Text of section added effective May 1, 1985*

This subchapter does not apply to a banking corporation.

[Acts 1984, 68th Leg., 2nd C.S., p. 510, ch. 31, art. 3, part B, § 6, eff. May 1, 1985.]

Nonseverability of portions of 1984 Act, see note under § 11.02.

#### SUBCHAPTER H. ENFORCEMENT

##### § 171.362. Penalty for Failure to Pay Tax or File Report

*[See main volume for text of (a) to (c)]*

(d) If a corporation electing to remit under Paragraph (A) of Subdivision (2) of Subsection (c) of Section 171.202 of this code remits less than the amount required, the penalties imposed by this section and the interest imposed under Section 111.060 of this code are assessed against the difference between the amount required to be remitted under Paragraph (A) of Subdivision (2) of Subsection (c) of Section 171.202 and the amount actually remitted on or before March 15.

(e) If a corporation remits the entire amount required by Subsection (c) of Section 171.202 of this code, no penalties will be imposed against the difference between the amount finally determined to be due and the amount remitted on or before March 15.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 165, ch. 10, art. 3, § 7, eff. Sept. 1, 1984.]

#### SUBCHAPTER I. DISPOSITION OF REVENUE

##### § 171.401. Revenue Deposited in General Revenue Fund

*Text of section effective May 1, 1985*

(a) The revenue from the tax imposed by this chapter on corporations other than banking corporations shall be deposited to the credit of the general revenue fund.

(b) The revenue from the tax imposed by this chapter on banking corporations shall be deposited to the credit of the local government corporate banking franchise tax fund as provided by Article 4366e, Revised Statutes.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 510, ch. 31, art. 3, part B, § 7, eff. May 1, 1985.]

*For text of section effective until May 1, 1985, see § 171.401, Tax Code Pamphlet*

Nonseverability of portions of 1984 amendatory act, see note under § 11.02.

**SUBTITLE G. GROSS RECEIPTS TAXES**  
**CHAPTER 181. CEMENT PRODUCTION TAX**  
**SUBCHAPTER E. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

**§ 181.202. Allocation of Tax Revenue**

One-fourth of the revenue from the tax imposed by this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 348, ch. 28, art. II, part B, § 4, eff. Sept. 1, 1984.]

**MISCELLANEOUS GROSS RECEIPTS TAXES**  
**SUBCHAPTER G. NATURE AND ALLOCATION OF TAX**

**§ 182.122. Allocation of Tax**

Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 348, ch. 28, art. II, part B, § 5, eff. Sept. 1, 1984.]

**SUBTITLE H. BUSINESS PERMIT TAXES**  
**CHAPTER 191. MISCELLANEOUS OCCUPATION TAXES**  
**SUBCHAPTER G. NATURE AND ALLOCATION OF TAX**

**§ 191.122. Allocation of Tax**

One-fourth of the revenue collected under this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the credit of the general revenue fund.

One-fourth of the revenue collected under this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the credit of the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 348, ch. 28, art. II, part B, § 6, eff. Sept. 1, 1984.]

**SUBTITLE I. SEVERANCE TAXES**  
**CHAPTER 201. GAS PRODUCTION TAX**

**SUBCHAPTER I. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

**§ 201.404. Allocation of Revenue**

After deducting the amount required to be deposited by Section 201.403 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the foundation school fund and three-fourths to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 349, ch. 28, art. II, part B, § 7, eff. Sept. 1, 1984.]

**CHAPTER 202. OIL PRODUCTION TAX**  
**SUBCHAPTER H. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

**§ 202.353. Allocation of Revenue**

After deducting the amount required to be deposited by Section 202.352 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the foundation school fund and three-fourths to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 349, ch. 28, art. II, part B, § 8, eff. Sept. 1, 1984.]

**CHAPTER 203. SULPHUR PRODUCTION TAX**  
**SUBCHAPTER D. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE**

**§ 203.152. Allocation of Revenue**

One-fourth of the revenue collected from the tax imposed by this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the general revenue fund.

[Amended by Acts 1984, 68th Leg., 2nd C.S., p. 349, ch. 28, art. II, part B, § 9, eff. Sept. 1, 1984.]

**TITLE 122.**  
**TAXATION**

**CHAPTER TWO. TAXES BASED UPON GROSS RECEIPTS**

Arts. 7064b to 7064e.

**Transfer**

*These articles are transferred to Insurance Code, arts. 4.13 to 4.16, and amend-*

*ed by Acts 1984, 68th Leg., 2nd C.S., p. 527, ch. 31, art. 4, § 4, effective January 1, 1985.*