



**WILLIAM M. JENNINGS**  
**CRIMINAL DISTRICT ATTORNEY**  
**GREGG COUNTY**

101 East Methvin Street, Suite 333  
LONGVIEW, TEXAS 75601  
903-236-8440  
FAX 903-236-8490

April 12, 2006

RECEIVED  
APR 18 2006  
OPINION COMMITTEE

FILE # ML-44743-06

I.D. # 44743

The Honorable Greg Abbott  
Attorney General of Texas  
c/o Opinions Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

**RQ 0476-GA**

Re: Request for Attorney General Opinion concerning business use vehicles as  
a result of H.B. 809

Dear Attorney General Abbott,

On behalf of the Gregg County Appraisal District, the Gregg County Criminal District Attorney's Office respectfully requests an Attorney General's Opinion concerning the above referenced issue. Legal arguments and authorities are included herein as follows: letters from Tom Hays, Chief Appraiser, Gregg County Appraisal District; letter from Harvey Hilderbran, State Representative, District 53; memorandum from Ron Walker, Texas Association of Realtors; Texas Realtor Focus; and relevant Tax Code provisions.

If any additional information is needed, please contact me.

Respectfully submitted,

*Janie L. Johnson*  
Janie L. Johnson, Assistant  
Criminal District Attorney  
Gregg County, Texas

cc: Tom Hays, Chief Appraiser  
Gregg County Appraisal District



## GREGG APPRAISAL DISTRICT

1333 E. Harrison Rd.  
Longview, TX 75604-5537  
(903) 238-8823  
FAX (903) 238-8830

Thomas R. Hays, RPA  
Chief Appraiser

March 24, 2005

The Honorable Greg Abbott  
Attorney General  
State of Texas  
Austin, TX 78711-7548

COPY

Re: Request for Attorney General Opinion.

Dear General Abbott:

The Gregg Appraisal District is seeking an opinion from your office with regard to business use vehicles as a result of H.B. 809.

### Historically

It is my understanding Texas law requires all property to be taxed unless it is exempt under Tex. Const. art. VIII, § 1.

That provision states in pertinent part as follows:

Tex. Const. Art. VIII, § 1

(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.

(3) subject to Subsections (e) of this section, a leased motor vehicle that is not held primarily for the production of income by the lessee and that otherwise qualifies under general law for exemption.

Further the Texas Property Tax Code, Section 22.01, provides that a person shall render for taxation all tangible personal property used for the production of income that the person owns or that the person manages and controls as a fiduciary on January 1.

78<sup>th</sup> Legislature

In the 78<sup>th</sup> Legislature the following were adopted:

H. B. 340, now Sec. 22.28 of the Property Tax Code, Penalty for Delinquent Report, provides that the chief appraiser shall impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district.

H.B. 340, addresses rendition penalties for failure to timely file. These changes were significant because for the first time there were penalties for failure to comply with the "mandatory" rendition. These bills addressed renditions not exemptions.

79<sup>th</sup> Legislature

In 2005 the 79<sup>th</sup> Legislature adopted H. B. 809, now Sec. 22.01 (k) of the Property Tax Code, authored by Representative Hilderbran. This new subsection provides to waive personal property rendition requirements for an individual who owns and is the primary operator of one or more passenger cars or light trucks in the course of the individual's occupation or profession and also operates those vehicles for personal activities that do not involve the production of income.

Again H.B. 809 addresses waiver of requirements of filing renditions and doesn't address exemption.

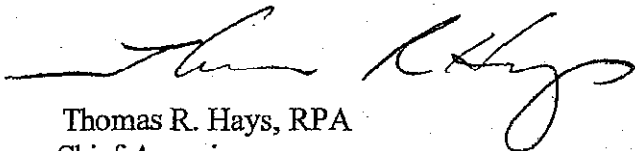
Summary

Does H.B. 809 exempt certain vehicles from taxation by waiving rendition requirements?  
I ask you to opine in this matter.

Enclosed are copies of a letter from Representative Hilderbran, dated February 17, 2006 and my response dated March 1, 2006. Also enclosed is a memorandum from Ron Walker of the Texas Association of Realtors, Summary of Issues Related to the Rendition of Personal Automobiles also used in the Production of Income (HB 809), dated January 17, 2006.

Thank you for your time. If you need any additional information to make a determination in this case, please do not hesitate to call.

Respectfully Submitted,



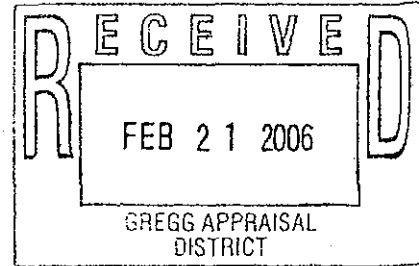
Thomas R. Hays, RPA  
Chief Appraiser

COPY



**Harvey Hilderbran**

MEMBER



District Office:  
125 Lehmann Drive  
Kerrville, Texas 78028  
830-257-2333

**The Texas House of Representatives**

State Representative • District 53

P.O. Box 2910  
Austin, Texas 78768-2910  
512-463-0536

February 17, 2006

Mr. Tom Hays, Chief Appraiser  
Gregg County Appraisal District  
1333 E. Harrison Road  
Longview, Texas 75605

COPY

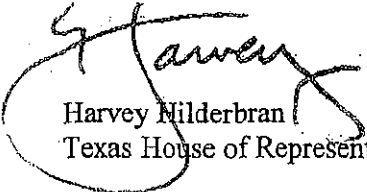
Dear Mr. Hays:

It has recently been brought to my attention that even though an individual is not required to render a personal vehicle that is used for both personal and business purposes, there is a question as to whether an appraisal district may, nonetheless, report such a vehicle on the appraisal roll for taxation. Such action ignores the intent of House Bill 809, which I passed in the 2005 legislative session.

Section 22.01, Tax Code requires a person to render tangible personal property that is used in the production of income. To clarify that §22.01 does not require individuals to render their personal automobiles that are used both for personal purposes and business purposes, I passed House Bill 809 during the 79<sup>th</sup> Regular Session (now codified as Section 22.01(k), Tax Code). House Bill 809 provides that an individual who, as the primary operator and owner of a car or light truck, uses that vehicle for both personal and business purposes is not required to render that vehicle for taxation. As you know, determining the value of such a vehicle and whether any allocation applies is troublesome and difficult. Additionally, procedures to locate such vehicles can be unequal and not uniform, which raises some constitutional questions. House Bill 809 resolved these concerns by eliminating the need to render such vehicles.

Since the rendition statement is the basis on which the appraisal districts report personal property for taxation, it was my intent that such vehicles would not need to be reported for taxation either by the individual taxpayer or the appraisal district. If an appraisal district reports such a vehicle when the individual taxpayer is clearly not required to render it, I believe the appraisal district is, in effect, compelling rendition when the §22.01(k), Tax Code states that it does not have to be rendered. This type of action clearly does not coalesce with my intent of H.B. 809:

Sincerely,

  
Harvey Hilderbran  
Texas House of Representatives

CC: Cassandra Northcutt, Chair  
Board of Directors  
Gregg County Appraisal District  
1333 E. Harrison Road  
Longview, Texas 75605

Lou Galosy, Secretary  
Board of Directors  
Gregg County Appraisal District  
3412 N. 4<sup>th</sup> St.  
Longview, Texas 75605

Daryl Atkinson  
Board of Directors  
Gregg County Appraisal District  
440 N. Fredonia  
Longview, Texas 75601

Ron McCutcheon  
Board of Directors  
Gregg County Appraisal District  
1910 Buckner  
Longview, Texas 75604

A.P. Merritt  
Board of Directors  
Gregg County Appraisal District  
703 Old Highway 135 S  
Kilgore, Texas 75693



## GREGG APPRAISAL DISTRICT

1333 E. Harrison Rd.  
Longview, TX 75604-5537  
(903) 238-8823  
FAX (903) 238-8830

Thomas R. Hays, RPA  
Chief Appraiser

March 1, 2006

Honorable Harvey Hilderbran  
Texas House of Representatives  
P.O. Box 2910  
Austin, TX 78768

COPY

Dear Representative Hilderbran,

Thank you for your letter dated February 17, 2006. Your comments on the legislative intent behind subsection (k) to Section 22.01 of the Tax Code, which was adopted by H.B. 809 in the last legislative session, were most informative. We always appreciate hearing from members of the Legislature concerning changes in the laws affecting the appraisal or exemption of properties for purposes of ad valorem taxation.

Your letter indicates that it was your intent that this amendment exempt one vehicle used for both business and personal reasons from taxation. As you are aware, there is a substantial legal difference between whether an item of property must be rendered for assessment for tax purposes or whether it is exempt from taxation. The clear language of H.B. 809 only accomplishes the former purpose, i.e. excusing a property owner from rendering a vehicle used for business and personal reasons.

As you also know, the Courts of this State do not recognize as authoritative any exemption of property from taxation that is not authorized by the Texas Constitution. Thus, it is my understanding that exemption of these vehicles from taxation may only be accomplished by a constitutional amendment approved by the voters of this State.

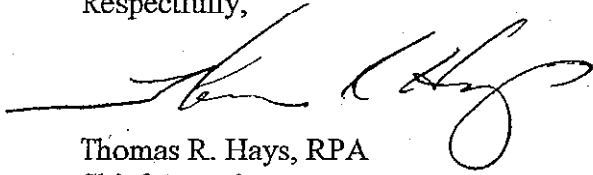
I, for one, do not make decisions on property tax issues based upon personal preference. Rather, I am compelled by the oath I take each time I certify a tax roll that I have made a diligent inquiry to include all taxable properties within the district on that roll. While I may prefer to exempt these vehicles from the tax rolls, I do not believe the law currently allows me to do so.

By way of further comment, I suggest that a proportional allocation of the use of these vehicles between business and personal use would impose a substantial burden on appraisal districts that is not warranted under the law. Additionally, H.B. 809 did not eliminate the need to assess this property. It only eliminated the requirement that the owner render it for tax purposes. Each

district is still obligated by law to seek out this property for appraisal purposes. Because of H.B. 809, some districts may now elect not to undertake this task. The obvious result will be that some districts will assess this property, and some will not. Such a result is inherently unequal and not uniform.

These comments are made with respect and appreciation for the difficult task the Legislature must perform. Chief Appraisers also face a difficult job in performing their role. To be fair to all concerned, each must follow the legal process mandated by the law.

Respectfully,



Thomas R. Hays, RPA  
Chief Appraiser

COPY

CC: Gregg Appraisal District Board of Directors

Longview Board of Realtors



## TEXAS ASSOCIATION OF REALTORS™

### Memorandum

To: TREPAC Trustees

From: Ron Walker

Re: Summary of Issues Related to the Rendition of Personal Automobiles  
also used in the Production of Income (HB 809)

Date: January 17, 2006

In the 2003 legislative session, provisions were added to Chapter 22 of the Tax Code that imposed penalties against persons who failed to properly render personal property that is used in the production of income to the appraisal district for taxation.<sup>1</sup> Section 22.01 of the Tax Code requires a person to render tangible personal property that is used in the production of income. It was not the intent of the bill that passed in 2003 to require individuals to render their personal automobiles that were used both for personal purposes and business purposes.<sup>2</sup> Therefore, the legislature passed HB 809 in 2005 (now codified as §22.01(k), Tax Code). HB 809 provides that an individual, who is the primary operator and owner of a car or light truck, and uses that vehicle for both personal and business purposes is not required to render that vehicle for taxation.<sup>3</sup>

As you know, representatives from the association of appraisal districts and representatives from TAR met prior to and during the 2005 legislative session on a number of issues. TAR came to accords with the appraisal district representatives on several issues; specifically, appeals of ARB decisions by arbitration and rendition of personal vehicles. The appraisal districts agreed not to oppose HB 809 and specifically monitored the bill.<sup>4</sup>

The rendition statement is the basis on which the appraisal district completes its tax roll of personal property. If the appraisal district sees that a person fails, intentionally or otherwise, to render property that should be rendered it may report that property to the taxing authority and may report it as "omitted property."<sup>5</sup>

<sup>1</sup> S.B. 340, 2003 Legislative Session.

<sup>2</sup> The Bill Analysis to HB 809 (2005 Legislative Session) states, "Currently, Section 22.01, Tax Code, requires the rendering of personal property used in the production of income for ad valorem tax purposes. In the 78th Regular Session, S.B. 340 amended Section 22.01 to create a penalty for the failure to render such properties and provided criteria for the information that is required to be included in the rendition statement. It was not the intent of S.B. 340 to require an individual's personal motor vehicle to be rendered."

<sup>3</sup> §22.01(k), Tax Code

<sup>4</sup> Witness lists of House and Senate Committees show no testimony in opposition to HB 809.

<sup>5</sup> §22.01, Tax Code



Page 2

Re: Rendition of Personal Automobiles also used in the Production of Income

With the foregoing in mind, the issue is whether the appraisal districts may or may not report on the tax roll an individual's personal vehicle that is used both for personal and business purposes even though the individual has no duty to render such a vehicle to the appraisal district for taxation. I think some further history on this issue may shed additional light and lead one to conclude that the appraisal districts ought not to take such action. The Texas Constitution provides that taxation must be equal and uniform.<sup>7</sup> I won't go into a discussion about what "equal and uniform" means except that it is clear that a taxing authority may not target one person or group and ignore other persons or groups who also use vehicles for both business and personal purposes.<sup>8</sup> For example, the appraisal district would violate the Texas Constitution by directing its efforts to locate only vehicles owned by REALTORS® and ignore vehicles owned by lawyers, accountants, doctors, handymen, plumbers, electricians, contractors, and the list continues. One could easily discover what efforts an appraisal district uses to locate such mixed-use vehicles in order to determine if such taxation is equal and uniform.

"The law requires that all taxes be assessed equally and uniformly. Property should not be singled out for taxation in a discriminatory manner such as by profession or name under which the vehicle is titled. If an appraisal district has established procedures intended to locate *all* personal property used to produce income and is following those procedures, the scheme of taxation would probably

\*Lively v. Missouri & K.T. Ry. Co., 102 Tex. 545, 120 S.W. 852 (1909)

Memorandum

Page 3

January 10, 2006

Re: Rendition of Personal Automobiles also used in the Production of Income

be legal. On the other hand, a court would probably disapprove of procedure for locating property that treats one group differently from others....If for example, vehicles owned by real estate agents and used to produce income were the only vehicles used to produce income that the appraisal district is taxing, this would not be equal and uniform taxation."<sup>9</sup>

The bottom line is that TAR believes that HB 809 was passed to give instruction and guidance to appraisal districts regarding mixed-use vehicles. Since the methods that appraisal districts use to identify and report such mixed-use vehicles for taxation are, in most cases, discriminatory, we believe the legislature adopted HB 809 to provide guidance to the citizens of this State and to the appraisal districts that, in effect, states that they need not render or report such mixed-use vehicles for taxation. Those appraisal districts that intend, nonetheless, to report such mixed-use vehicles for taxation, do so: (1) contrary to the intent of HB 809; and (2) probably in a manner that violates the Texas Constitution.

In the past TAR stood ready to fund challenges against appraisal districts who have attempted to report such mixed use vehicles for taxation under methods that are discriminatory on their face or as applied.

<sup>9</sup> Letter from Comptroller of Public Accounts dated August 5, 1996, signed by James Archer, Area Manager Property Tax Division, addressed to Ron Walker.

## CHAPTER 22. RENDITIONS AND OTHER REPORTS

## SUBCHAPTER A. INFORMATION FROM TAXPAYER

§ 22.01. RENDITION GENERALLY. (a) Except as provided by Chapter 24, a person shall render for taxation all tangible personal property used for the production of income that the person owns or that the person manages and controls as a fiduciary on January 1. A rendition statement shall contain:

- (1) the name and address of the property owner;
- (2) a description of the property by type or category;
- (3) if the property is inventory, a description of each type of inventory and a general estimate of the quantity of each type of inventory;
- (4) the physical location or taxable situs of the property; and
- (5) the property owner's good faith estimate of the market value of the property or, at the option of the property owner, the historical cost when new and the year of acquisition of the property.

(b) When required by the chief appraiser, a person shall render for taxation any other taxable property that he owns or that he manages and controls as a fiduciary on January 1.

(c) A person may render for taxation any property that he owns or that he manages and controls as a fiduciary on January 1, although he is not required to render it by Subsection (a) or (b) of this section.

(d) A fiduciary who renders property shall indicate his fiduciary capacity and shall state the name and address of the owner.

(e) Notwithstanding Subsections (a) and (b), a person is not required to render for taxation cotton that:

- (1) the person manages and controls as a fiduciary;
- (2) is stored in a warehouse for which an exemption for cotton has been granted under Section 11.437; and
- (3) the person intends to transport outside of the state within the time permitted by Article VIII, Section 1-j, of the Texas Constitution for cotton to qualify for an exemption under that section.

(f) Notwithstanding Subsections (a) and (b), a rendition statement of a person who owns tangible personal property used for the production of income located in the appraisal district that, in the owner's opinion, has an aggregate value of less than \$20,000 is required to contain only:

- (1) the name and address of the property owner;
- (2) a general description of the property by type or category; and

(3) the physical location or taxable site of the property.

(g) A person's good faith estimate of the market value of the property under Subsection (a)(5) is solely for the purpose of compliance with the requirement to render tangible personal property and is inadmissible in any subsequent protest, hearing, appeal, suit, or other proceeding under this title involving the property, except for:

(1) a proceeding to determine whether the person complied with this section;

(2) a proceeding under Section 22.29(b); or

(3) a protest under Section 41.41.

(h) If the property that is the subject of the rendition is regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, the federal Surface Transportation Board, or the Federal Energy Regulatory Commission, the owner of the property is considered to have complied with the requirements of this section if the owner provides to the chief appraiser, on written request of the chief appraiser, a copy of the annual regulatory report covering the property and sufficient information to enable the chief appraiser to allocate the value of the property among the appropriate taxing units for which the appraisal district appraises property.

(i) Subsection (a) does not apply to a property owner whose property is subject to appraisal by a third party retained by the appraisal district if the property owner provides information substantially equivalent to that required by Subsection (a) regarding the property directly to the third party appraiser.

(j) Subsection (a) does not apply to property that is exempt from taxation.

**X** (k) Notwithstanding Subsections (a) and (b), an individual who owns and is the primary operator of one or more passenger cars or light trucks in the course of the individual's occupation or profession and also operates those vehicles for personal activities that do not involve the production of income is not required to render the vehicles for taxation. In this subsection, "passenger car" and "light truck" have the meanings assigned by Section 502.001, Transportation Code.

Acts 1979, 66th Leg., p. 2249, ch. 841, § 1, eff. Jan. 1, 1982.  
Amended by Acts 1981, 67th Leg., 1st C.S., p. 134, ch. 13, § 48, eff. Jan. 1, 1982; Acts 1993, 73rd Leg., ch. 779, § 4, eff. Jan. 1, 1994; Acts 2003, 78th Leg., ch. 1173, § 3, eff. Jan. 1, 2004; Acts 2003, 78th Leg., ch. 1276, § 15.001(b), eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 941, § 1, eff. Jan. 1, 2006.

§ 22.02. RENDITION OF PROPERTY LOSING EXEMPTION DURING TAX YEAR OR FOR WHICH EXEMPTION APPLICATION IS DENIED. (a) If an exemption applicable to a property on January 1 terminates during the tax year, the person who owns or acquires the property on the date applicability of the exemption terminates shall render the property for taxation within 30 days after the date of termination.

(b) If the chief appraiser denies an application for an


[Site Map](#)
[Help](#)
[About Us](#) | [Legal Tools](#) | [Govt. Affairs](#) | [Prof. Standards](#) | [News & Pubs](#) | [Education](#) | [Resources](#)

- > [Home](#)
- > [Calendar/Events](#)
- > [Benefits](#)
- > [Forms](#)
- > [ZipForm](#)
- > [Online Store](#)
- > [Affordable Housing](#)
- > [For the Media](#)

[Member Log-In](#)

TREC #

Password


[Log-In Help](#)

## TEXAS REALTOR® FOCUS

News, solutions, and insights  
for real estate professionals

Nov. 20, 2003

Advertisement

**We Sell  
Homeowners  
Insurance**



Adjust to availability and qualifications. Allstate Texas  
Lynch, Irving, Texas. © 2003 Allstate Insurance Company

### in this issue ...

**Focus Feature** Amnesty period for property-rendition taxes ends Dec. 1

**Forms** Proposed revisions to listing addenda

**Professional Development** Make sure to answer pop-up questions in e-PRO course

**Technology** Print what you see on your screen

**Open House** The walls came tumbling down

**Legal** Seller contributions without FHA financing

**My Benefits** Get your free drug card

**Real Estate Links** From around the Web

**Quick Question** Counting contract days with holidays

**Association Business** Help influence legislation that affects your industry; Cook wins Distinguished Service Award

### Quick Question Counting days

If the effective date of a contract with a 10-day option period is Tuesday, Nov. 25, then on what day would the option expire?

Answer

### Focus Feature

#### Amnesty period for property-rendition taxes ends Dec. 1

If you've never "rendered" (reported) personal property used in the production of income to your appraisal district and want to avoid back taxes and possible penalties, you must file a property-rendition statement for tax year 2003 by Dec. 1. You've always been responsible for such a rendering; however, until the adoption of Senate Bill 340 by the 78th Texas Legislature, you were not subject to civil and criminal penalties for failing to make such a rendition.

There are no exemptions to the tax, regardless of how much or little property you have to render. The only difference is how you report the property: Taxpayers with less than \$20,000 to report need file only a general accounting, while those with more than

\$20,000 to report must provide a more-detailed statement.

Find more information about this tax and answers to frequently asked questions regarding property rendition at TexasRealtors.com. If the answer you need is not listed in the FAQs, contact TAR Associate Counsel Tom Morgan at 800/873-9155, ext. 115.

Top

## Forms

### **Proposed revisions to listing addenda**

TAR proposes to revise the following forms:

- 1401: Condominium Addendum to Listing
- 1402: Named Exclusions Addendum to Listing
- 1403: Exclusive Agency Addendum to Listing
- 1404: Amendment to Listing
- 1405: Request for Information from an Owners' Association
- 1407: Information about On-Site Sewer Facility
- 1409: Intermediary Relationship Notice
- 1410: Termination of Listing
- 1411: Keybox Authorization from Tenant
- 1412: Seller's Authorization to Release and Advertise Certain Information
- 1413: Request for Mortgage Information
- 1414: Information about Special Flood Hazard Areas

The revised forms and a summary of the proposed changes are available for review by choosing *Forms Under Revision* in the Forms section of TexasRealtors.com. Submit any comments before Jan. 6, 2004, to TAR Director of Legal Affairs Ron Walker. Top

## Professional Development

### **Make sure to answer pop-up questions in e-PRO course**

Many of you have registered for the MCE-approved e-PRO training program, which helps you communicate effectively with Web-savvy consumers and get the most out of your online real estate business. Part of the online course includes TREC-required questions that open a new window on your screen. If you fail to correctly answer these questions in two attempts, the program kicks you out.

If you experience this problem or have other technical questions about using the e-PRO course, call TAR's Professional Development Department at 800/873-9155 or contact John Reilly, one of the creators of e-PRO, at 619/283-7302, ext. 103.

If you haven't yet registered for e-PRO, which comes with 15 hours of TREC-approved MCE (eight hours legal), learn more at TexasRealtors.com. Top

## Technology

### **Print what you see on your screen**

Someone should rename the Windows *Print Screen* key. Way back in the dark ages of the late 20th century, pressing this one button would actually send an image of the screen directly to your printer. Now, it functions as a screen-capture button, placing an image of the screen onto your clipboard for pasting into Word or another program for printing.



- > Home
- > Calendar/Events
- > Benefits
- > Forms
- > ZipForm
- > Online Store
- > Affordable Housing
- > For the Media

> Member Log-In

TREC #

Password

Go

> Log-In Help

Texas REALTOR® | November 2003

## If it is to be, it is up to me

Amnesty period to avoid paying for prior years ends Dec. 1.

by Tom Morgan

You've always been responsible for this tax. Now you're going to have to pay it.



### Magazine resources

[Current Issue](#)

[Archives](#)

[Advertise](#)

[Writers/experts](#)

[Reader services](#)

In the past, Texas taxpayers who failed to "render" (or report) the amount of personal property they owned and used for the production of income were not subject to sanctions. Senate Bill 340, adopted by the 78th Texas Legislature, changed that. Now, taxpayers who do not make such a rendition may face criminal and civil penalties.

Taxpayers can take advantage of an amnesty provision that allows filing a rendition statement for the 2003 tax year by Dec. 1, 2003.

Those who do not meet this deadline may be pursued for paying taxes starting with the 2001 tax year.

For taxpayers with less than \$20,000 of personal property used in the production of income, the rendition statement requires only a general property description by type/category, property address or address where taxable, an optional good-faith estimate of market value, and the property owner's name and address. The form for taxpayers with more than \$20,000 of personal property used for the production of income requires more-detailed reporting.

The form proposed by the comptroller of public accounts, along with some explanatory text, can be found at [www.cpa.state.tx.us/taxinfo/proptax/busren03](http://www.cpa.state.tx.us/taxinfo/proptax/busren03). Appraisal districts may develop their own forms but should accept the comptroller's form as well.

REALTORS® who have previously rendered personal property to appraisal districts will need to continue to render statements to the appraisal districts as in prior years. The comptroller is developing new forms for rendition for tax years beginning in 2004.

*I am a salesperson for ABC Realty and I have never rendered my personal property to the appraisal district in the past. Do I need to render anything?*

*★*  
Yes. Although a salesperson does not have to render inventory owned by the salesperson's broker, the salesperson is required to render anything he owns and uses for the production of income, such as an automobile or home computer.

*★*  
I have an automobile that I use both for personal purposes and business purposes, such as showing listings. Do I have to render the automobile?

Yes. The Property Tax Code does not allow for allocation between personal and business use of personal property. The full good-faith estimate of the market value of the automobile must be rendered.

*How do I arrive at a good-faith estimate of the market value of my personal property?*

The comptroller defines this as follows: "Your best estimate of what the property would have sold for in U.S. dollars on Jan. 1 of the current tax year if it has been on the market for a reasonable length of time and neither you nor the purchaser was forced to buy or sell. For inventory, it is the price for which the property would have sold as a unit to a purchaser who would continue the business."



SB 340 provides that businesses with 50 or fewer employees may base the estimate of value on the depreciation schedules used for federal income tax purposes.

*Do I need to add together all of my personal property to see whether I have more than \$20,000, or is it based on each asset individually?*

You must add up all of your personal property to see whether you are over the \$20,000 threshold.

**Tom Morgan is associate counsel for TAR.**

**You can access this article, with additional questions and answers, on TexasRealtors.com in the Legal Tools section by clicking "Topics of Interest."**

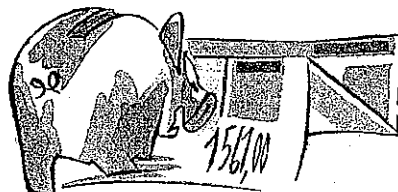
**Photo © Creatas.**

Copyright Texas Association of REALTORS.

This page can be found at <http://www.texasrealtors.com/web/7/54/magazine/issues/03/1103/legal.cfm>

# How much did you save?

The association's efforts during the 79<sup>th</sup> Texas Legislature kept more money in your pocket.



TAR's influence during the last legislative session helped pass and defeat several measures that might save you money. Take out your calculator and fill in the blanks to see just how much.

## 1 Business rendition - HB 809

HB 809, which takes effect Jan. 1, 2006, exempts personal vehicles that are also used for business purposes for the production of income from the required rendition for ad valorem tax purposes. Calculate the savings you will realize by multiplying the value of your personal vehicle by 0.0275, which represents the average total property tax rate in Texas of \$2.75 per \$100 valuation.

Vehicle value \$ \_\_\_\_\_ X 0.0275 = \$ \_\_\_\_\_ Your savings

Example: \$22,500 (vehicle value) X 0.0275 = \$618.75 (your savings)

## 2 Doubling of professional fees

During the school-finance debate, one revenue-generating concept that was defeated was the doubling of the professional fee for real estate brokers. Currently, real estate brokers pay \$400 for their two-year license. This fee is in addition to other licensing fees required by the Texas Real Estate Commission.

\$ 400 Your savings

## 3 Tax on services

A proposal to extend the sales tax to professional services, including real estate services, was also defeated. If this proposal passed, your real estate commissions would have been subject to the current sales tax rate of 8.25%. Calculate the savings you realize from the defeat of this proposal by multiplying your gross commission value (year to date) by 8.25%. The percent value represents the total sales tax rate in Texas.

Gross commission value \$ \_\_\_\_\_ X 0.0825 = \$ \_\_\_\_\_ Your savings

Example: \$50,000 (gross commission value) X 0.0825 = \$4,125 (your savings)

## 4 Transfer tax on real property

A tax on the transfer of all real property was another concept proposed to fund schools. The proposed tax rate varied from 1%-1.5%, and wouldn't directly hit your pocketbook unless you bought real property. But a study conducted by economist Ray Perryman concluded the real estate market would decline by 5%-7% if a transfer tax was created in Texas. This, in turn, would cause a decrease in your potential commissions. To calculate the savings you realize from the defeat of this concept, reduce your sales volume by 7% and then calculate how it would affect your take-home pay. The percent value represents the decrease in the real estate market, effectively reducing sales volume on an annual basis.

Sales volume value \$ \_\_\_\_\_ X 0.07 X (your take-home percentage) = \$ \_\_\_\_\_ Your savings

Example: \$2,000,000 (sales volume value) X 0.07 = \$140,000 (sales volume reduction)  
\$140,000 (reduction in sales) X (your take-home percentage) = \$ \_\_\_\_\_ (your savings)

Add up all the numbers listed next to *Your savings* and write that sum here: \$ \_\_\_\_\_

This is a quantified value of what an effective governmental affairs program and TREPAC mean to you. This calculation does not consider the defeat of other bills that may have added additional duties and obligations upon brokers and salespersons that may have contributed to the cost of doing business.