

Sec. 23.123. Declarations and Statements Confidential.

(a) In this section:

- (1) "Collector" has the meaning given it in Section 23.122 of this code.
- (2) "Chief appraiser" has the meaning given it in Section 23.122 of this code.
- (3) "Dealer" has the meaning given it in Section 23.121 of this code.
- (4) "Declaration" has the meaning given it in Section 23.122 of this code.
- (5) "Owner" has the meaning given it in Section 23.121 of this code.
- (6) "Statement" has the meaning given it in Section 23.122 of this code.

(b) Except as provided by this section, a declaration or statement filed with a chief appraiser or collector as required by Section 23.121 or Section 23.122 of this code is confidential and not open to public inspection. A declaration or statement and the information contained in either may not be disclosed to anyone except an employee of the appraisal office who appraises the property or to an employee of the county tax assessor-collector involved in the maintenance of the owner's escrow account.

(c) Information made confidential by this section may be disclosed:

- (1) in a judicial or administrative proceeding pursuant to a lawful subpoena;
- (2) to the person who filed the declaration or statement or to that person's representative authorized by the person in writing to receive the information;
- (3) to the comptroller or an employee of the comptroller authorized by the comptroller to receive the information;
- (4) to a collector or chief appraiser;
- (5) to a district attorney, criminal district attorney or county attorney involved in the enforcement of a penalty imposed pursuant to Section 23.121 or Section 23.122;
- (6) for statistical purposes if in a form that does not identify specific property or a specific property owner;
- (7) if and to the extent that the information is required for inclusion in a public document or record that the appraisal or collection office is required by law to prepare or maintain; or
- (8) to the Texas Department of Motor Vehicles for use by that department in auditing compliance of its licensees with appropriate provisions of applicable law.

(d) A person who knowingly permits inspection of a declaration or statement by a person not authorized to inspect the declaration or statement or who discloses confidential information contained in the declaration or statement to a person not authorized to receive the information commits an offense. An offense under this subsection is a Class B misdemeanor.

(Enacted by Acts 1995, 74th Leg., ch. 945 (H.B. 2624), § 4, effective January 1, 1996; am. Acts 1999, 76th Leg., ch. 1038 (H.B. 3033), § 2, effective June 18, 1999; am. Acts 2009, 81st Leg., ch. 933 (H.B. 3097), § 3K.05, effective September 1, 2009.)

Sec. 23.124. Dealer's Vessel and Outboard Motor Inventory; Value.

(a) In this section:

- (1) "Chief appraiser" means the chief appraiser for the appraisal district in which a dealer's vessel and outboard motor inventory is located.
- (2) "Collector" means the county tax assessor-collector in the county in which a dealer's vessel and outboard motor inventory is located.
- (3) "Dealer" means a person who holds a dealer's and manufacturer's number issued by the Parks and Wildlife Department under the authority of Section 31.041, Parks and Wildlife Code, or is authorized by law or interstate reciprocity agreement to purchase vessels or outboard motors in Texas without paying the sales tax. The term does not include a person who is principally engaged in manufacturing vessels or outboard motors or an entity that is owned or controlled by such a person.
- (4) "Dealer's vessel and outboard motor inventory" means all vessels and outboard motors held for sale by a dealer.
- (5) "Dealer-financed sale" means the sale of a vessel or outboard motor in which the seller finances the purchase of the vessel or outboard motor, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement evidencing the sale.
- (6) "Declaration" means the dealer's vessel and outboard motor inventory declaration form promulgated by the comptroller as required by this section.
- (7) "Fleet transaction" means the sale of five or more vessels or outboard motors from a dealer's vessel and outboard motor inventory to the same business entity within one calendar year.
- (8) "Outboard motor" has the meaning given it by Section 31.003, Parks and Wildlife Code.
- (9) "Owner" means a dealer who owes current year vessel and outboard motor inventory taxes levied against a dealer's vessel and outboard motor inventory.
- (10) "Person" means a natural person, corporation, partnership, or other legal entity.
- (11) "Sales price" means the total amount of money paid or to be paid for the purchase of:
 - (A) a vessel, other than a trailer that is treated as a vessel, as set forth as "sales price" in the form entitled "Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department;
 - (B) an outboard motor as set forth as "sales price" in the form entitled "Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader's Affidavit" promulgated by the Parks and Wildlife Department; or

(C) a trailer that is treated as a vessel as set forth as “sales price” in the form entitled “Application for Texas Certificate of Title” promulgated by the Texas Department of Motor Vehicles.

In a transaction involving a vessel, an outboard motor, or a trailer that is treated as a vessel that does not involve the use of one of these forms, the term means an amount of money that is equivalent, or substantially equivalent, to the amount that would appear as “sales price” on the Application for Texas Certificate of Number/Title for Boat/Seller, Donor or Trader’s Affidavit, the Application for Texas Certificate of Title for an Outboard Motor/Seller, Donor or Trader’s Affidavit, or the Application for Texas Certificate of Title if one of these forms were involved.

(12) “Subsequent sale” means a dealer-financed sale of a vessel or outboard motor that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer’s vessel and outboard motor inventory in the same calendar year.

(13) “Total annual sales” means the total of the sales price from every sale from a dealer’s vessel and outboard motor inventory for a 12-month period.

(14) “Vessel” has the meaning given it by Section 31.003, Parks and Wildlife Code, except such term shall not include:

(A) vessels of more than 65 feet in length, measured from end to end over the deck, excluding sheer; and

(B) canoes, kayaks, punts, rowboats, rubber rafts, or other vessels under 14 feet in length when paddled, poled, oared, or windblown.

The term “vessel” also includes trailers that are treated as vessels as defined in this section.

(15) “Trailer treated as a vessel” means a vehicle that:

(A) is designed to carry a vessel; and

(B) is either a “trailer” or “semitrailer” as such terms are defined by Section 501.002, Transportation Code.

(b) For the purpose of the computation of property tax, the market value of a dealer’s vessel and outboard motor inventory on January 1 is the total annual sales from the dealer’s vessel and outboard motor inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the prior tax year, divided by 12.

(c) For the purpose of the computation of property tax on the market value of a dealer’s vessel and outboard motor inventory of an owner who was not a dealer on January 1 of the prior tax year, the chief appraiser shall estimate the market value of the dealer’s vessel and outboard motor inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer’s vessel and outboard motor inventory in the prior tax year.

(d) Except for the dealer’s vessel and outboard motor inventory, personal property held by a dealer is appraised as provided by other sections of this code. In the case of a dealer whose sales from the dealer’s vessel and outboard motor inventory are made predominantly to dealers, the chief appraiser shall appraise the dealer’s vessel and outboard motor inventory as provided by Section 23.12 of this code.

(e) A dealer is presumed to be an owner of a dealer’s vessel and outboard motor inventory on January 1 if, in the 12-month period ending on December 31 of the immediately preceding year, the dealer sold a vessel or outboard motor to a person other than a dealer. The presumption created by this subsection is not rebutted by the fact that a dealer has no vessels or outboard motors physically on hand for sale from a dealer’s vessel and outboard motor inventory on January 1.

(f) The comptroller shall promulgate a form entitled “Dealer’s Vessel and Outboard Motor Inventory Declaration.” Except as provided by Section 23.125(l) of this code, not later than February 1 of each year or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:

(1) the name and business address of each location at which the dealer owner conducts business;

(2) each of the dealer’s and manufacturer’s numbers issued by the Parks and Wildlife Department;

(3) a statement that the dealer owner is the owner of a dealer’s vessel and outboard motor inventory; and

(4) the market value of the dealer’s vessel and outboard motor inventory for the current tax year as computed under Subsection (b) of this section.

(g) Under the terms provided by this subsection, the chief appraiser may examine the books and records of the holder of a dealer’s and manufacturer’s number issued by the Parks and Wildlife Department. A request made under this subsection must be made in writing, delivered personally to the custodian of the records, must provide a period not less than 15 days for the person to respond to the request, and must state that the person to whom it is addressed has the right to seek judicial relief from compliance with the request. In a request made under this section the chief appraiser may examine:

(1) the document issued by the Parks and Wildlife Department showing the person’s dealer’s and manufacturer’s number;

(2) documentation appropriate to allow the chief appraiser to ascertain the applicability of this section and Section 23.125 of this code to the person;

(3) sales records to substantiate information set forth in the dealer’s declaration filed by the person.

(h) If a dealer fails to file a declaration required by this section, or if, on the declaration required by this section, a dealer reports the sale of fewer than five vessels or outboard motors in the prior year, the chief appraiser shall report that fact to the Parks and Wildlife Department.

(i) A dealer who fails to file a declaration required by this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. Each day during which a dealer fails to comply with the terms of this subsection is a separate violation.

(j) A dealer who violates Subsection (g) of this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. Each day during which a dealer fails to comply with the terms of Subsection (g) of this section is a separate violation.

(k) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by this section shall forfeit a penalty. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney shall collect the penalty established by this section in the name of the chief appraiser or collector. Venue of an action brought under this subsection is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. A penalty forfeited under this subsection is \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.

(Enacted by Acts 1995, 74th Leg., ch. 836 (H.B. 2940), § 3, effective January 1, 1996; am. Acts 1997, 75th Leg., ch. 165 (S.B. 898), § 31.01(73), effective September 1, 1997 (renumbered from Sec. 23.12D); am. Acts 1997, 75th Leg., ch. 1052 (S.B. 1153), §§ 1, 2, effective January 1, 1998; am. Acts 2009, 81st Leg., ch. 116 (H.B. 2071), § 3, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 933 (H.B. 3097), § 3K.06, effective September 1, 2009.)

Sec. 23.1241. Dealer's Heavy Equipment Inventory; Value.

(a) In this section:

(1) "Dealer" means a person engaged in the business in this state of selling, leasing, or renting heavy equipment. The term does not include a bank, savings bank, savings and loan association, credit union, or other finance company. In addition, for purposes of taxation of a person's inventory of heavy equipment in a tax year, the term does not include a person who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with Chapter 22.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale, lease, or rent in this state during a 12-month period.

(3) "Dealer-financed sale" means the sale at retail of an item of heavy equipment in which the dealer finances the purchase of the item, is the sole lender in the transaction, and retains exclusively the right to enforce the terms of the agreement that evidences the sale.

(4) "Declaration" means a dealer's heavy equipment inventory declaration form adopted by the comptroller under this section.

(5) "Fleet transaction" means the sale of five or more items of heavy equipment from a dealer's heavy equipment inventory to the same person in one calendar year.

(6) "Heavy equipment" means self-propelled, self-powered, or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 pounds and is intended to be used for agricultural, construction, industrial, maritime, mining, or forestry uses. The term does not include a motor vehicle that is required by:

(A) Chapter 501, Transportation Code, to be titled; or

(B) Chapter 502, Transportation Code, to be registered.

(7) "Sales price" means:

(A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or

(B) for a lease or rental, the total amount of the lease or rental payments.

(8) "Subsequent sale" means a dealer-financed sale of an item of heavy equipment that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's heavy equipment inventory in the same calendar year. The term does not include a rental or lease with an unexercised purchase option or without a purchase option.

(9) "Total annual sales" means the total of the:

(A) sales price for each sale from a dealer's heavy equipment inventory in a 12-month period; and

(B) lease and rental payments received for each lease or rental of heavy equipment inventory in a 12-month period.

(b) For the purpose of the computation of property tax, the market value of a dealer's heavy equipment inventory on January 1 is the total annual sales, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12.

(b-1) For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory, the sales price of an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of that same tax year is considered to be the sum of the sales price of the item plus the total lease and rental payments received for the item in the preceding tax year.

(c) For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory of an owner who was not a dealer on January 1 of the preceding tax year, the chief appraiser shall estimate the market value of the dealer's heavy equipment inventory. In making the estimate required by this subsection, the chief appraiser shall extrapolate using sales data, if any, generated by sales from the dealer's heavy equipment inventory in the preceding tax year.

(d) Except for dealer's heavy equipment inventory, personal property held by a dealer is appraised as provided by the other sections of this code. In the case of a dealer whose sales from the dealer's heavy equipment inventory are made