



MEMORANDUM

TO: Mayor Brian Loughmiller and Members of City Council
FROM: Jason Gray, City Manager
DATE: December 6, 2011
SUBJECT: Goods-In-Transit Exemption – Option to Tax for 2012

Summary

Recent legislative changes to Goods-In-Transit tax laws require a public hearing and council action by December 31, 2011 for those taxing jurisdictions choosing to “opt out” of the Goods-in-Transit exemption.

Background

In 2007, the Legislature passed Tax Code Section 11.253 creating the “Goods-in-Transit” (GIT) exemption. The exemption was an expanded exemption, similar to Freeport. However, the Freeport exemption only applies to inventory that is shipped **outside** Texas within 175 days. The GIT exemption applies to goods that are shipped **inside** or **outside** the state within 175 days if the goods are held in a warehouse **not** owned by the owner of the goods. This 2011 revision to Section 11.253 of the Tax Code clarifies certain aspects of the exemption related to the ownership of the goods and the warehouse.

Like the original exemption, this revised GIT exemption is **automatic** unless the governing body adopts an ordinance that specifically taxes the property or “opts out” of the exemption. To the best of our knowledge, all Collin County taxing entities except for Frisco, elected to “opt-out” of the 2007 GIT exemption meaning that the City of McKinney taxes for GIT. However, based on the attached survey from the NCTCOG, most all metroplex cities including those in Collin County will elect to “opt-out” of the recent legislative change and tax these goods-in-transit. With the recent changes in legislation and to continue taxing GIT, we must:

- Conduct a public hearing, before action is taken to tax this property. The adoption may be at the same meeting.
- The adoption must take place on or after October 1, 2011 and before January 1, 2012 for the property to be taxable for tax year 2012.
- An entity can allow the GIT exemption to go into effect and can then subsequently rescind the exemption.

Current Issue & Financial Impact

The Collin Central Appraisal District (CCAD) has not prepared an estimate of potential lost revenue if the City of McKinney did not choose to opt out, but has indicated that the district currently has no property that qualifies for the exemption under the existing Section 11.253 of the Tax Code as there has never been a “goods-in-transit” application filed.

They did, however, predict the initial impact would be limited because many businesses store goods in their own facilities. However, there is the possibility that many businesses would move their goods to 3rd party warehouses to take advantage of the exemption.

Action Needed

I propose that the City of McKinney conduct the public hearing and act on whether to continue taxing these goods or let them become exempt at the December 6th Regular Council Meeting.

If the City takes no action, the goods will be subject to exemption for 2012. The City may later elect to tax such goods for subsequent years if it fails to act this year.

Attachments:

- CCAD letter including packet prepared by its legal counsel
- NCTCOG survey.