

ORDINANCE NO. 4185

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, PROVIDING FOR THE TAXATION OF GOODS-IN-TRANSIT EXEMPT UNDER SECTION 11.253 OF THE TEXAS TAX CODE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 80<sup>th</sup> Texas Legislature in its regular session enacted House Bill 621 (hereinafter "HB 621") which added Section 11.253 to the Texas Tax Code; and

WHEREAS, Section 11.253(b) of the Texas Tax Code exempts from ad valorem taxation certain tangible personal property defined in Section 11.253(a)(2) of the Texas Tax Code as "Goods-in-transit"; and

WHEREAS, pursuant to Section 11.253 of the Texas Tax Code, the governing body of a taxing unit may take official action to tax "Goods-in-transit" exempt from taxation pursuant to Section 11.253(b) of the Texas Tax Code and not exempt under other law; and

WHEREAS, on August 20, 2007, in accordance with House Bill 621 and Texas Tax Code Section 11.253(j), the City Council of Mesquite, Texas, adopted Ordinance No. 3881 in order for "Goods-in-transit" exempt pursuant to Section 11.253(b) of the Texas Tax Code to remain subject to taxation by the City of Mesquite, Texas; and

WHEREAS, the 82nd Texas Legislature in its First Special Session enacted Senate Bill 1 (hereinafter referred to as "SB 1"); and

WHEREAS, SB 1 amends the tangible personal property that is exempt from ad valorem taxation pursuant to Section 11.253(b) of the Texas Tax Code by amending the definition of "Goods-in-transit" in Section 11.253(a)(2) of the Texas Tax Code, by adding a definition of "bailee" and "warehouse" as Section 11.253(a)(5) and by adding a definition of "public warehouse operator" as Section 11.253(a)(6), all of such definitions being effective January 1, 2012; and

WHEREAS, SB 1 further amends Section 11.253 of the Texas Tax Code by adding Section 11.253(j-1) which provides that a taxing unit may not tax "Goods-in-transit" exempt under Section 11.253(b) of the Texas Tax Code in a tax year that begins on or after January 1, 2012 unless the governing body of the taxing unit takes action on or after October 1, 2011 to provide for the taxation of such "Goods-in-transit"; and

WHEREAS, Section 11.253 of the Texas Tax Code allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of "Goods-in-transit" exempt under Section 11.253(b) of the Texas Tax Code and not exempt under other law; and

WHEREAS, any official action to tax such otherwise exempt property must be taken on or after October 1, 2011 and before January 1st of the first tax year in which the governing body proposes to tax such "Goods-in-transit"; and

WHEREAS, the City Council of the City of Mesquite, Texas, after determining all legal requirements of notice have been met and having conducted a public hearing as required by Section 11.253 of the Texas Tax Code and Section 1-n(d), Article VIII of the Texas Constitution, finds and is of the opinion that it is in the best interest of the City to continue to tax "Goods-in-transit" exempt from ad valorem taxation pursuant to Section 11.253(b) of the Texas Tax Code, as amended by SB 1, and not exempt under other law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That the findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 2. That the terms "location," "petroleum product," "bailee," "warehouse" and "public warehouse operator" as used herein shall have the meanings set forth in Section 11.253 of the Texas Tax Code, as amended by Senate Bill 1 enacted by the 82<sup>nd</sup> Texas Legislature in its First Special Session (hereinafter "SB 1"). "Dealer's motor vehicle inventory," "dealer's vessel and outboard motor inventory," "dealer's heavy equipment inventory," and "retail manufactured housing inventory" as used herein shall have the meanings assigned by Subchapter B, Chapter 23 of the Texas Tax Code.

SECTION 3. That the term "Goods-in-transit" as used herein shall have the meaning set forth in Section 11.253(a)(2) of the Texas Tax Code, as amended by SB 1, which defines "Goods-in-transit" effective January 1, 2012, to mean tangible personal property that: (A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state; (B) is stored under a contract of bailment by a public warehouse operator at one or more public warehouse facilities in this state that are not in any way owned or controlled by the owner of the personal property for the account of the person who acquired or imported the property; (C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and (D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory or retail manufactured housing inventory.

SECTION 4. That tangible personal property consisting of Goods-in-transit not exempt under other law shall not be exempt from taxation and is hereby subject to ad valorem taxation pursuant to Section 11.253 of the Texas Tax Code.

SECTION 5. That the City of Mesquite, Texas (the "City") shall continue to tax Goods-in-transit as defined herein and in Section 11.253(a)(2) of the Texas Tax Code, as amended by SB 1, and not exempt under other law.

SECTION 6. That the taxation of Goods-in-transit as more fully set forth herein shall be effective for the tax year that begins on January 1, 2012 and each tax year thereafter unless and until the City's action to tax such Goods-in-transit is rescinded or repealed or until the City otherwise determines to apply the exemption prescribed by Section 11.253(b) of the Texas Tax Code.

SECTION 7. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 8. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 9. That this ordinance shall become effective immediately upon its passage.

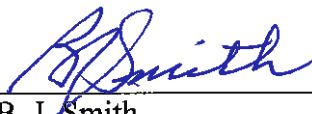
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of October, 2011.

  
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John Monaco  
Mayor

ATTEST:

APPROVED:

  
\_\_\_\_\_  
Sonja Land  
City Secretary

  
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B. J. Smith  
City Attorney