

Special Inventory

PENALTIES

FINES & MORE

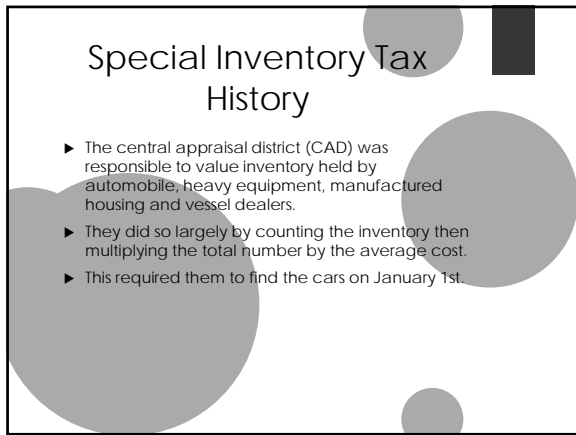
PENALTIES



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Special Inventory Tax History

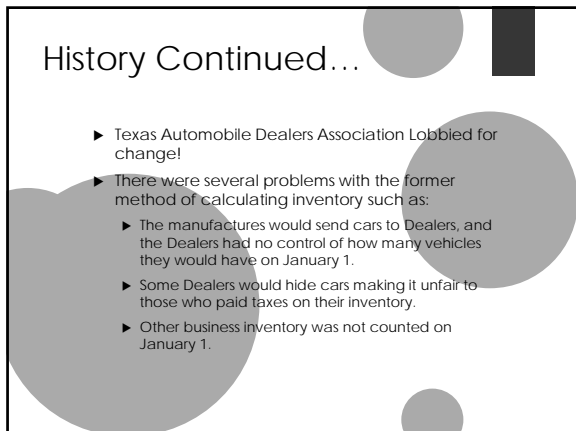
- ▶ The central appraisal district (CAD) was responsible to value inventory held by automobile, heavy equipment, manufactured housing and vessel dealers.
- ▶ They did so largely by counting the inventory then multiplying the total number by the average cost.
- ▶ This required them to find the cars on January 1st.



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History Continued...

- ▶ Texas Automobile Dealers Association Lobbied for change!
- ▶ There were several problems with the former method of calculating inventory such as:
 - ▶ The manufactures would send cars to Dealers, and the Dealers had no control of how many vehicles they would have on January 1.
 - ▶ Some Dealers would hide cars making it unfair to those who paid taxes on their inventory.
 - ▶ Other business inventory was not counted on January 1.



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Special Inventory Tax Now

- ▶ Texas Legislature enacted laws that identify Special Inventory Dealers and place the burden on those Dealers to provide inventory to both the Chief Appraiser and the Tax Assessor Collector.
- ▶ These new laws are more fair to the Dealers, but failure not to properly adhere to these new laws have strict and hefty penalties.

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What is Special Inventory

- ▶ **Motor Vehicle Inventory**
 - ▶ Property Tax Code §23.121, §23.122, §23.123 and § 23.129
- ▶ **Vessel and Outboard Motor Inventory**
 - ▶ Property Tax Code §23.124, §23.125, and §23.126
- ▶ **Heavy Equipment Inventory**
 - ▶ Property Tax Code §23.1241, §23.1242, §23.1243 and § 23.129
- ▶ **Manufactured Housing Retailers**
 - ▶ Property Tax Code §23.123, §23.127, §23.128 and § 23.129

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Who Files Special Inventory

- ▶ **Motor Vehicle Inventory** 23.121(a)(3)
 - ▶ "Dealer" means a person who holds a dealer's general distinguishing number issued by the Texas Department of Motor Vehicles...
- ▶ **Vessel and Outboard Motor Inventory** 23.124(a)(3)
 - ▶ "Dealer" means a person who holds a dealer's and manufacturer's number issued by the Parks and Wildlife Department...
- ▶ **Heavy Equipment Inventory** 23.1241(a)(1)
 - ▶ "Dealer" means a person engaged in the business...of selling, leasing, or renting heavy equipment.
- ▶ **Manufactured Housing Retailers** 23.127(a)(1)
 - ▶ Retailer (defined by 1201.003 occupation code) as a person who:
 - ▶ ...is engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering manufactured homes for sale or exchange to consumers, including a person who maintains a location for the display of manufactured homes; and
 - (B) sells or exchanges at least two manufactured homes to consumers in a 12-month period.

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Annual Declaration

► 23.121 (f) ... not later than February 1 of each year...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 general distinguishing numbers issued by the Texas Department of Transportation;
- (3) a statement that the dealer owner is the owner of a dealer's motor vehicle inventory; and
- (4) the market value of the dealer's motor vehicle inventory for the current tax year as computed under Section 23.121(b) of this code.

Vessels and Outboard Motors 23.124, Heavy Equipment 23.1241, Manufactured Housing 23.127, Motor Vehicles 23.121

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Annual Declaration 50-244

Confidential

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Monthly Statement (Monthly Report)

► 23.122 (e) The comptroller shall promulgate a form entitled a Dealer's Motor Vehicle Inventory Tax Statement. Each month a dealer shall complete the form with respect to each motor vehicle sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:

- (1) a description of the motor vehicle sold;
- (2) the sales price of the motor vehicle;
- (3) the unit property tax of the motor vehicle if any; and
- (4) the reason no unit property tax is assigned if no unit property tax is assigned.

Motor Vehicles 23.122, Heavy Equipment 23.1242, Manufactured Housing 23.128, Vessels and Outboard Motors 23.125

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Calculating Unit Property Tax Value ("UPTV")

- ▶ = the total tax rates for all taxing entities the property is subject to and divide by 12 (months) /100

City of El Paso	0.63300
Ysleta ISD	1.330000
El Paso County	0.338258
EP Comm College	0.105670
Univ. Medical Cen	0.179405
<hr/>	
	2.586333 /12/100 = .002155

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Calculating Prepayment of SIT Taxes

- ▶ Sales Price x UPTV = Total Unit Property Tax
- ▶ Pre Payment of Taxes
 - ▶ Taxes are pre-paid each month
 - ▶ By the 10th day for all dealers except Heavy Equipment Dealers which are due by the 20th.
 - ▶ ***Please note there are no prepayment of taxes due for Dealers who open their doors after January 1 until the following year.

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Example:

- ▶ Motor Vehicle Dealer opens her doors on January 2, 2018 and is issued a dealer license
- ▶ Dealer must submit (to chief appraiser and collector) an Annual Declaration within 30 days of opening business (23.121(f))
- ▶ Dealer must submit (to chief appraiser and collector) a Statement by February 10 (if no cars sold, then must be stated on Statement); (each subsequent month a Statement must be filed by the 10th day of the month(23.121(f))
- ▶ ***No taxes are due each month the Dealer was in business his first year, but a monthly Statement must be filed

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Example Continued:

- ▶ Dealer must file a new Declaration by February 1, 2019
- ▶ Dealer's market value is determined by the Chief Appraiser on January 1, 2019, which is calculated by using annual sales data submitted by the Dealer from the prior year (23.121(c)).
- ▶ On or before the 10th day of each month a Dealer shall file with the collector the monthly statement covering the sales for the prior month and pre-pay taxes based on the reported sales. (Dealer typically passes this cost onto each purchaser of a vehicle).

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Example Continued:

- ▶ In January 2020, after the dealer's monthly statement & prepayment of taxes has been received for the December 2019 sales, the collector shall apply the escrowed funds to each taxing unit to pay the 2019 property taxes.
- ▶ If there is a deficit, 2019 taxes become delinquent February 1, 2020
- ▶ Any 2019 overage is distributed to taxing entities (23.122(k))

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Declaration:
Misdemeanors, Fines & Penalties

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SIT Fines & Penalties

- ▶ Declaration Late Filing Fine
- ▶ Declaration Late Filing Penalty
- ▶ Statement Late Filing Fine
- ▶ Statement Late Filing Penalty
- ▶ Escrow Late Payment Penalty
- ▶ Inspection of Documentation Fine

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SIT Timeline and Deadlines

- ▶ January 1: Property tax levied (32.01)
- ▶ February 1: Declaration must be filed (23.122)
 - ▶ Dealers that open a business after January 1 must file a declaration 30 days from commencing business
- ▶ 10th of the month statement must be filed and taxes paid (23.122)
 - ▶ Motor Vehicle
 - ▶ Manufactured Housing
 - ▶ Vessels
- ▶ 20th of the month statement must be filed and taxes paid (23.1242)
 - ▶ Heavy Equipment

Note*** taxes paid before January 31 of the year following the date on which they are due are not delinquent

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Annual Declaration Fines & Penalties

- ▶ 23.121(j) ...An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$500. Each day during which a person fails to comply with the terms of Subsection (g) of this section is a separate violation.
- ▶ (k) ... A tax lien attaches to the dealer's business personal property to secure payment of the penalty... A penalty forfeited under this subsection is \$1,000 for each month or part of a month in which a declaration is not filed after it is due.

***No misdemeanor or fine for heavy equipment

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Late Filing of Declaration
Misdemeanors, Fines & Penalties

- ▶ **Motor Vehicles** 23.121(i),(k)
 - ▶ Misdemeanor (\$500 Fine a day until filed)
 - ▶ \$1,000 Penalty each month until filed (Tax Lien BPP)
- ▶ **Vessels and Outboard Motors** 23.124(i),(k)
 - ▶ Misdemeanor (\$500 Fine a day until filed)
 - ▶ \$1,000 Penalty each month until filed (Tax Lien BPP)
- ▶ **Manufactured Housing** 23.127(i),(k)
 - ▶ Misdemeanor (\$500 Fine a day until filed)
 - ▶ \$1,000 Penalty each month until filed (Tax Lien BPP)
- ▶ **Heavy Equipment** 23.1241(i)
 - ▶ **NO** Misdemeanor
 - ▶ \$1,000 Penalty each month until filed (Tax Lien BPP)

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Who Collects

Annual Declaration Late Filing Penalty
 Motor Vehicle 23.121(k)

- ▶ ...A **tax lien** attaches to the dealer's business personal property to secure payment of the penalty.
- ▶ ...*The appropriate district attorney, criminal district attorney, county attorney, chief appraiser, or person designated by the chief appraiser shall collect* the penalty established by this section **in the name of the chief appraiser.**

\$1,000 monthly penalty (delinquent any part of the month)

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Who Collects

Annual Declaration Late Filing Penalty
 Vessel and Outboard Motor 23.124(k)

- ▶ ...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.**

\$1,000 monthly penalty (delinquent any part of the month)

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Who Collects
 Annual Declaration Late Filing Penalty
 Heavy Equipment 23.1241(j)

- ▶ ...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 **may collect** the penalty established by this section **in the name of the collector.**
- ▶ The chief appraiser may collect the penalty **in the name of the chief appraiser.**
 - ▶ The chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney **may sue** to enforce compliance with this section.

\$1,000 monthly penalty (delinquent any part of the month)

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Who Collects
 Annual Declaration Late Filing Penalty
 Retail Manufactured Housing 23.127(k)

- ▶ ...A **lien** attaches to the retailer's business personal property to secure payment of the penalty.
- ▶ ...The appropriate district attorney, criminal district attorney, county attorney, chief appraiser, **or person designated by the chief appraiser shall collect** the penalty established by this section **in the name of the chief appraiser.**

\$1,000 monthly penalty (delinquent any part of the month)

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MONTHLY STATEMENT
 Misdemeanors, Fines & Penalties

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Statement Fines & Penalties

Penalties for Failure to File Monthly statements

- ▶ 23.122 (m) A dealer who fails to file a statement ... commits an offense ... is a **misdemeanor** punishable by a **fine** not to exceed **\$100. Each day** during which a dealer fails to comply with the terms of this subsection is a separate violation.
- ▶ 23.122(n) ...a dealer who fails to file a statement as required by this section shall forfeit a **penalty** ...The appropriate district attorney, criminal district attorney, county attorney, collector, or person designated by the collector shall collect the penalty established by this section **in the name of the collector** ... A penalty forfeited under this subsection is **\$500 for each month or part of a month** in which a statement is not filed after it is due.

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Late Filing of Statement Misdemeanors, Fines & Penalties

- ▶ **Motor Vehicles** 23.122(m),(n)
 - ▶ Misdemeanor (\$100 Fine a day until filed)
 - ▶ \$500 Penalty each month until filed (Tax Lien BPP)
- ▶ **Vessels and Outboard Motors** 23.125(m),(n)
 - ▶ Misdemeanor (\$100 Fine a day until filed)
 - ▶ \$500 Penalty each month until filed (Tax Lien BPP)
- ▶ **Manufactured Housing** 23.128(l),(m)
 - ▶ Misdemeanor (\$100 Fine a day until filed)
 - ▶ \$500 Penalty each month until filed (Tax Lien BPP)
- ▶ **Heavy Equipment** 23.1242(m)
 - ▶ \$500 Penalty each month until filed (Tax Lien BPP)

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Escrow Payment Penalties

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Prepayment Escrow Account

VIT/SIT vehicle (23.122(b), vessels and outboard inventory 23.25(b),
Manufactured Housing Retailers (23.128(b))

- ▶ 23.122 (b)
 - ▶ ...On or before the 10th day of each month the owner shall, together with the statement
 - ▶ ...deposit with the collector a sum equal to the total of unit property tax assigned to all motor vehicles sold from the dealer's motor vehicle inventory in the prior month to which a unit property tax was assigned. ...
- ▶ 23.122 (c)
 - ▶ ...The collector is not required to maintain a separate account in the depository for each escrow account created

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Prepayment Escrow Account

HEAVY EQUIPMENT (THE EXCEPTION)

- 23.1242 (b)
 - ...On or before the 20th day of each month the owner shall, together with the statement
 - ...deposit with the collector an amount equal to the total of unit property tax assigned to all items of heavy equipment sold, leased, or rented from the dealer's heavy equipment inventory in the preceding month to which a unit property tax was assigned...

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Non-Payment of Escrow Taxes

Penalties

- ▶ An owner who fails to remit unit property taxes due as required by this section shall pay a **penalty of five percent** of the amount due.
- ▶ If the amount due is not paid within 10 days after the due date, the owner shall pay an **additional penalty of five percent** of the amount due.
- ▶ Notwithstanding the terms of this section, unit property taxes paid on or before January 31 of the year following the date on which they are due are **not delinquent**.
- ▶ The collector, the collector's designated agent, or the county or district attorney shall enforce the terms of this subsection.
- ▶ A penalty under this subsection is in addition to any other penalty provided by law if the owner's taxes are delinquent.

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Non-Payment of Escrow Taxes Penalties

- ▶ **Motor Vehicles** 23.122(o)
 - ▶ 5% Additional Penalty if not paid by 11th of the month
 - ▶ +5% Additional Penalty if not paid by the 21st of the month
- ▶ **Vessels and Outboard Motors** 23.125(o)
 - ▶ 5% Additional Penalty if not paid by 11th of the month
 - ▶ +5% Additional Penalty if not paid by the 21st of the month
- ▶ **Manufactured Housing** 23.128(n)
 - ▶ 5% Additional Penalty if not paid by 11th of the month
 - ▶ +5% Additional Penalty if not paid by the 21st of the month
- ▶ **Heavy Equipment** 23.1242(n)
 - ▶ 5% Additional Penalty if not paid by 21st of the month
 - ▶ +5% Additional Penalty if not paid until after 31st day of the month

Note: Tex. Prop. Tax Code 1.06: If the last day for the performance of an act is a Saturday, Sunday, or legal state or national holiday, the act is timely if performed on the next regular business day.

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Escrow Account Interest

- ▶ The collector shall retain any interest generated by the escrow account to defray the cost of administration of the prepayment procedure established by this section. Interest generated by an escrow account created as provided by this section is the sole property of the collector and may not be used by an entity other than the collector. Interest generated by an escrow account may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.
- ▶ Applies to ALL SIT
 - ▶ 23.122 (c) Motor Vehicle Inventory
 - ▶ 23.1242(c) Heavy Equipment Dealers
 - ▶ 23.125(c) Vessel and Outboard Motor Inventory
 - ▶ 23.128(c) Manufactured Housing Retailers

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Whose Money?

Late Filing of Statement and Escrow Payments Motor Vehicles 23.122(p), Heavy Equipment 23.1242(o), Manufactured Housing Retailers 23.128(o)

- ▶ Fines collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the general fund. 23.122 (p)
- ▶ ...Penalties collected...are the sole property of the collector, may be used by no entity other than the collector, and may not be used to reduce or otherwise affect the annual appropriation to the collector that would otherwise be made.

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Whose Money?

Late Filing of Statement and Escrow Payments
 Vessels and Outboard Motors 23.125(p)

- ▶ **Fines and Penalties** collected pursuant to the authority of this section shall be deposited in the county depository to the credit of the **general fund**.

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Waiver of Penalties

- ▶ §23.129
 - ▶ A Chief Appraiser may waive Vehicle Inventory Declaration Penalties
 - ▶ §23.121(k) Motor Vehicle
 - ▶ §23.1241(j) Heavy Equipment
 - ▶ 23.127 (k) Manufactured Housing
 - ▶ A Collector may waive Vehicle Inventory Tax Statement Penalties
 - ▶ §23.122(n) Motor Vehicles
 - ▶ §23.1242(m) Heavy Equipment
 - ▶ 23.128 (m) Manufactured Housing
- ▶ Waiver permitted only if:
 - ▶ TP files written application NLT 30 days after declaration or statement due date; and
 - ▶ TP's failure to file timely was the result of a **DISASTER** making filing impossible, or an event beyond the control of TP that **DESTROYED** TP's property or records;
 - ▶ TP must be otherwise be in compliance with filing rules

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COLLECTING FINES & PENALTIES

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Fines & Penalty Collection Issues

- ▶ Who will collect?
- ▶ How do we track delinquencies?
- ▶ Does my collection software have a SIT module?
- ▶ Should letters be mailed?
- ▶ If so, who mails the letters?
- ▶ Due process concerns
- ▶ Does Waiver of penalties apply ?

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Run Reports

- ▶ Collection Software VIT/SIT collection modules
 - ▶ Run year to date dealer reports
 - ▶ Print letters

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Year to Date, Dealer Report

SPECIAL INVENTORY DEALER MOTOR VEHICLE ACCOUNTS FOR THE YEAR 2010
AS OF 05/14/2010

Run Date	Report Date	Dealer Name	Month	Deposit	Receipt Date	Payment Type	Monthly Sales	Balance Due	Pen.Priest/MSF Paid	Amount Paid	Over/Short
05/14/2010 11:18:11	05/14										
Reference: 00000000											
			FEB 02/01/2010	02/02/2010	CHECK 000110047		145,002.75	216.25	25.83	316.08	32.00
			MAR 03/01/2010	03/02/2010	CASH		0.00	0.00	0.00	0.00	0.00
			APR 04/01/2010	04/02/2010	CHECK 7149		22,500.00	39.62	0.00	39.62	0.00
			Lenny Deceased		Lenny To Pay	Lenny Change	Lenny Unallocated				
			Total	\$0.00	\$0.00	\$0.00	\$167,502.75	\$255.87	\$25.83	\$355.70	\$32.00
Reference: 10000000											
			JAN 01/01/2010	01/02/2010	CHECK 16120		265,518.00	443.75	0.00	443.75	0.00
			FEB 02/01/2010	02/02/2010	CHECK 16182		41,248.24	89.67	0.00	89.64	0.00
			MAR 03/01/2010	03/02/2010	CHECK 16278		32,900.00	71.94	7.15	71.95	0.00
			APR 04/01/2010	04/02/2010	CHECK 16278		23,160.00	38.84	0.00	38.83	0.00
			Lenny Deceased		Lenny To Pay	Lenny Change	Lenny Unallocated				
			Total	\$0.00	\$0.00	\$0.00	\$362,826.24	\$544.15	\$7.15	\$544.30	\$0.00
Reference: 10000000											
			APR 04/01/2010	04/02/2010	CASH		15,580.00	26.29	0.00	0.00	26.29
			Lenny Deceased		Lenny To Pay	Lenny Change	Lenny Unallocated				
			Total	\$0.00	\$0.00	\$0.00	\$15,580.00	\$26.29	\$0.00	\$0.00	\$26.29
Reference: 10000000											
			FEB 02/01/2010	02/02/2010	CHECK 1168		8,000.00	28.15	0.00	28.15	0.00
			MAR 03/01/2010	03/02/2010	CHECK 1168		15,500.00	28.26	0.00	28.26	0.00
			APR 04/01/2010	04/02/2010	CHECK 11		0.00	0.00	0.00	0.00	0.00
			Lenny Deceased		Lenny To Pay	Lenny Change	Lenny Unallocated				
			Total	\$0.00	\$0.00	\$0.00	\$13,500.00	\$56.41	\$0.00	\$56.41	\$0.00

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YTD Dealer Report Cont..

BIT
COMPOSITE SUMMARY OF
SPECIAL INVENTORY DEALERSHIP TAXES ACCOUNTS FOR THE YEAR 2010
AS OF 05/24/2010

Run Date: 05/24/2010 11:58:11 Input Request Seq: Batch/Job #1: 00
Report to: 000000 Page 204 of 210

Number of Accounts Processed: 617		SPECIAL INVENTORY GRAND TOTALS:	
YTD Monthly Sales:	\$450,367,291.08	Total Levy To Date:	\$0.00
Calculated Escrow Due:	\$402,967.11	Total Levy Charges:	\$0.00
Total Levy Assessed:	\$0.00	Total Levy Unallocated:	\$891,218.81
		Escrow Paid:	\$891,000.00
Total Payments:	\$107,245.37	Total Penalty Paid:	\$1,841.00
Total Referrals:	\$34,181.88	Total Fines Paid:	\$0.00
Transaction Amounts:	\$893,093.49	Total NSF Paid:	\$0.00
		Total Penalty/Fines/NSF Paid:	\$1,841.00
Distribution Of Funds		Overage Withdrawal:	\$0.00
Levy Withdrawal To Lockbox:	\$0.00	Penalty Withdrawal:	\$0.00
		Fine Withdrawal:	\$0.00
		NSF Withdrawal:	\$0.00
		Total Withdrawal To Taxpayers:	\$0.00

END OF OVERALL REPORT

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Communicate with Dealers, Initiate Dialogue

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UPT Factor Letter

May 9, 2010

Dealer No: [REDACTED]
CAID No: [REDACTED]
Tax Year: [REDACTED]

RE: ANNUAL FACTOR LETTER

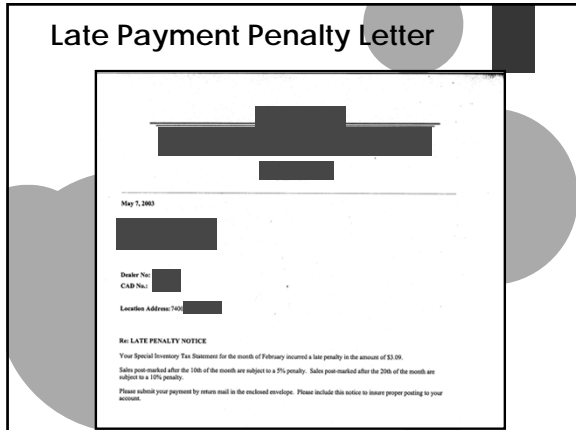
The [REDACTED] Appraisal District has determined the trucking jurisdictions to which your company was located as of May 09, 2010. Your tax per payments into your escrow account should now be calculated using the unit property tax value (UPTV) shown below:

Trucking Jurisdiction	Tax Rate
[REDACTED]	2.388700
[REDACTED]	0.185700
[REDACTED]	0.007500
Total	2.581900

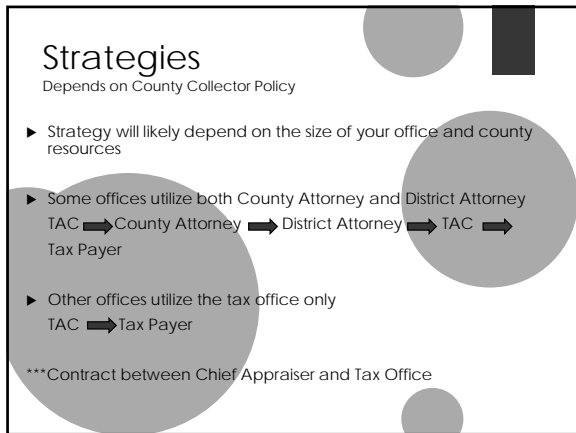
Example: Sales Price \$500,000 x Factor 0.001961 = \$980.50

Questions regarding this letter and/or your business account should be directed to the [REDACTED] Appraisal District at [REDACTED]

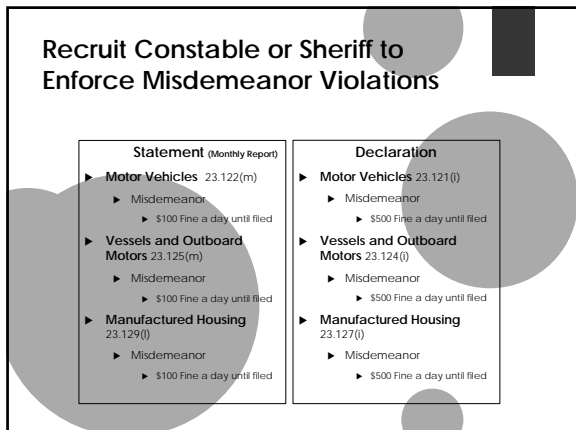
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Add Late Filing Penalty To Tax Roll

- ▶ Penalty tax liens can be enforced the same as other delinquent business personal property accounts.

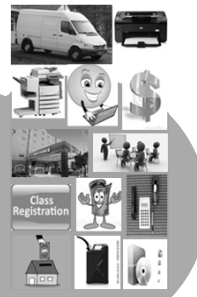
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Add Penalty to Tax Roll, and Enforce BPP Tax Liens

Statement (Monthly Report)	Declaration
<ul style="list-style-type: none"> ▶ Motor Vehicles 23.122(n) <ul style="list-style-type: none"> ▶ \$500 Penalty each month until filed (Tax Lien BPP) ▶ Vessels and Outboard Motors 23.125(n) <ul style="list-style-type: none"> ▶ \$500 Penalty each month until filed (Tax Lien BPP) ▶ Manufactured Housing 23.129(m) <ul style="list-style-type: none"> ▶ \$500 Penalty each month until filed (Tax Lien BPP) ▶ Heavy Equipment 23.1242(m) <ul style="list-style-type: none"> ▶ \$500 Penalty each month until filed (Tax Lien BPP) 	<ul style="list-style-type: none"> ▶ Motor Vehicles 23.121(k) <ul style="list-style-type: none"> ▶ \$1,000 Penalty each month until filed (Tax Lien BPP) ▶ Vessels and Outboard Motors 23.124(k) <ul style="list-style-type: none"> ▶ \$1,000 Penalty each month until filed (Tax Lien BPP) ▶ Manufactured Housing 23.127(k) <ul style="list-style-type: none"> ▶ \$1,000 Penalty each month until filed (Tax Lien BPP) ▶ Heavy Equipment 23.1241(j) <ul style="list-style-type: none"> ▶ \$1,000 Penalty each month until filed (Tax Lien BPP)

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Benefits of Collecting Penalties



- ▶ Vehicles/Maintenance
- ▶ Gasoline
- ▶ Professional Development
- ▶ Dues, Courses, Per Diem, Hotels, Conference Registration
- ▶ Copy Machines/Printers
- ▶ Furniture
- ▶ Computers
- ▶ Software
- ▶ Salaries

** Expenses you would not mind published on the front page of the news paper!

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Property Tax Code

- ▶ Relevant code dealing with special inventory specifically is found in §23, Subchapter B of the Texas Property Tax Code
- ▶ Comptroller website
<https://comptroller.texas.gov/taxes/property-tax/special-inventory.php>
