

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: City Manager's Office
AGENDA DATE: INTRODUCTION - December 6, 2011
PUBLIC HEARING - December 13, 2011
CONTACT PERSON/PHONE: Lynly Leeper, Chief Budget Officer, 541-4777
DISTRICT(S) AFFECTED: All

SUBJECT:

An ordinance to tax tangible personal property in transit held temporarily at a location in El Paso, Texas, which would otherwise be exempt pursuant to Texas Tax Code, Section 11.253.

BACKGROUND / DISCUSSION:

The 80th Texas Legislature in Regular Session enacted House Bill 621 to take effect on January 1, 2008, which added Texas Tax Code Section 11.253 to exempt from taxation certain tangible personal property held temporarily at a location in this state for assembling, storing manufacturing, processing or fabricating purposes ("Goods-in-Transit").

The 82nd Texas Legislature in Special Session has enacted Senate Bill 1 which revised Texas Tax Code Section 11.253 effective January 1, 2012, exempting from taxation certain tangible personal property held temporarily at a location in this state ("Goods-in-Transit") which property has been subject to taxation in the past.

The Texas Tax Code Section 11.253)(j)(1) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such Goods-in-Transit.

PRIOR COUNCIL ACTION:

Yes, City Council previously adopted an ordinance imposing the ad valorem tax on Goods-in-Transit, effective January 1, 2008.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Lynly H. Leeper

ORDINANCE NO. _____

AN ORDINANCE TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT HELD TEMPORARILY AT A LOCATION IN EL PASO, TEXAS, WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE SECTION 11.253 AND REPEAL ORDINANCE NO. 16798

WHEREAS, on December 11, 2007, the City of El Paso by Ordinance No. 16798 elected to tax certain tangible personal property held temporarily at a location in this state for assembling, storing, manufacturing, processing or fabricating purposes in accordance with Texas Tax Code Section 11.253;

WHEREAS, the 82nd Texas Legislature in Special Session has enacted Senate Bill 1 which revised Texas Tax Code Section 11.253 effective January 1, 2012, which exempts from taxation Goods in Transit redefined to include only certain tangible personal property stored temporarily at a location in this state;

WHEREAS, Texas Tax Code Section 11.253(j)(1) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such redefined Goods-in-Transit; and

WHEREAS, the City Council of the City of El Paso, having conducted a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution, has determined that it is in the best interests of the City of El Paso to continue to tax such Goods-in-Transit.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the tangible personal property held temporarily at a location in this state for storage (“Goods-in-Transit”) in accordance with Texas Tax Code Section 11.253, as amended by Texas Senate Bill 1, enacted by the 82nd Texas Legislature in Special Session, shall remain subject to taxation by the City of El Paso, Texas for tax year 2012 and every year thereafter and that Ordinance No. 16798 be repealed.

PASSED AND APPROVED this _____ day of _____, 2011.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

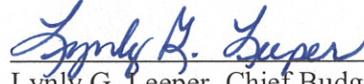
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Bertha A. Ontiveros
Assistant City Attorney

APPROVED AS TO CONTENT:



Lynly G. Leeper, Chief Budget Officer
City Manager's Office

ORDINANCE _____

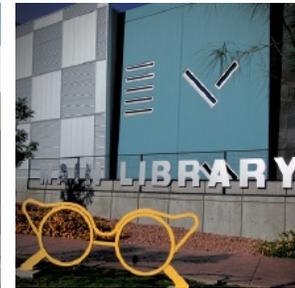
11-1056-004 Ordinance Goods-In-Transit (Freeport) Tax 2011
Doc. 88711.2 BAO



City of El Paso

Senate Bill 1 Texas Tax Code Section 11.253 Super Freeport Exemption

December 13, 2011
Lynly Leeper, OMB





Overview

- House Bill 621 took effect on January 1, 2008
 - Exempted goods that reside temporarily in warehouses within a city while awaiting shipment to other locations within or outside of Texas
- Senate Bill 1 amended Texas Tax Code Section 11.253, effective January 1, 2012
 - Council must enact before end of CY 2011
 - Revised Code allows governing bodies of a taxing unit, after conducting a public hearing, to continue taxation of Goods-in-Transit



Senate Bill 1

- Senate Bill 1 exempts Goods-in-Transit
 - What are “Goods-in-Transit”?
 - Tangible personal property
 - Principally inventory
 - Stored under a contract of bailment by a public warehouse operator at a public warehouse facility that is in no way owned or controlled by the owner of the goods
 - Goods are transported to another location within 175 days after the goods were acquired or imported into Texas



Senate Bill 1

- Requires governing body of each taxing unit to take action to continue taxation of these goods before December 31, 2011
- City Council elected to tax goods-in-transit effective January 1, 2008
- By enacting this ordinance, Council will authorize **continued** taxation of goods-in-transit

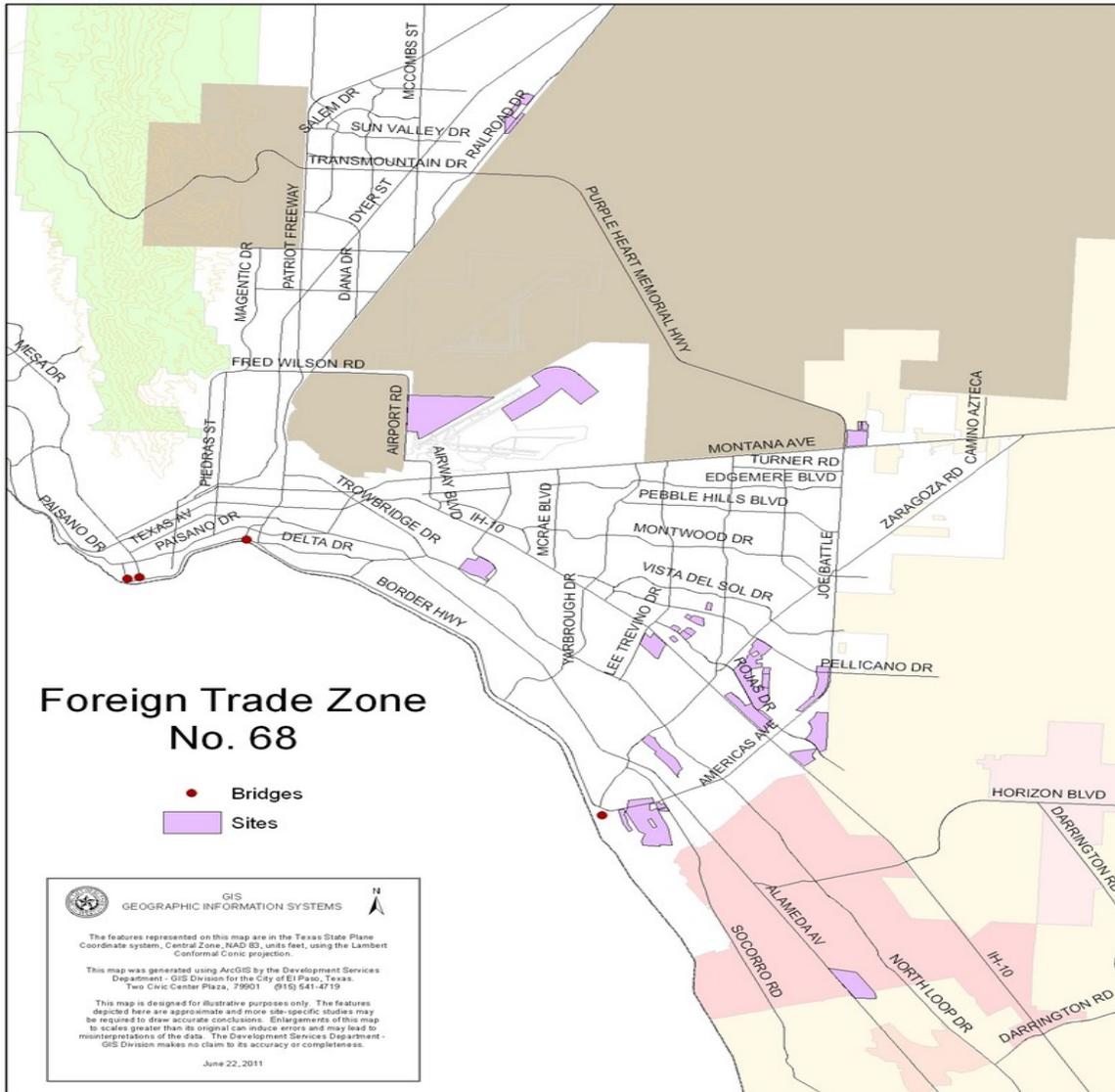


“Goods” in the Foreign Trade Zone (FTZ)

- Goods-in-Transit which are in the FTZ are exempt from state and local personal property taxes
- These goods will continue to be exempt in future years



Map of Foreign Trade Zone (FTZ) Sites





Central Appraisal District (CAD) Methodology

- El Paso CAD identifies goods-in-transit through field inspections by their appraisers and through self-reporting by property and warehouse owners
- El Paso CAD's annual reporting period begins on January 1st



Impact/Recommendation

- If Council takes no action on this item, revenue loss is estimated to be approximately \$1.6M in annual property tax revenue
- Tax rate would need to increase by approximately ½ cent to all other property owners
- **Continue** taxation of Goods-in-Transit



Other Local Governments

- **County of El Paso** – approved tax on 11/28/2011
- **Austin** – enacted ordinance to continue taxation
- **Corpus Christi** – enacted ordinance to continue taxation
- **Dallas** – going to Council on 12/14/2012
- **Fort Worth** – enacted ordinance to continue taxation
- **Houston** – enacted ordinance to continue taxation
- **McAllen** – going to Council on 12/12/2012
- **Plano** – enacted ordinance to continue taxation
- **San Antonio** – enacted ordinance to continue taxation



Questions?