



TAXING MATTERS

TEXAS PROPERTY TAX LAW UPDATE

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FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES BARS EXEMPTION CLAIMS; TEX. TAX CODE § 25.25 CANNOT BE USED TO LITIGATE EXEMPTION; ULTRA VIRES CLAIM FAILS WHERE CHIEF APPRAISER ACTS WITHIN STATUTORY DISCRETION

Taxpayers sought a refund and exemption for four aircraft, asserting they were personal-use property exempt under Tex. Tax Code § 11.14. Instead of filing a timely protest under Chapter 41, they filed motions to correct the appraisal roll under § 25.25(c)(3), claiming the aircraft did not exist “in the form or location” described. The ARB denied relief, and taxpayers filed suit asserting exemption claims and ultra vires conduct by the chief appraiser.

The court of appeals held that the trial court lacked jurisdiction over the exemption claims because the taxpayers failed to exhaust administrative remedies. A challenge to the denial of an exemption must be raised through a timely Chapter 41 protest; § 25.25 is a limited remedy that does not permit litigation of exemption issues. Because the ARB never ruled on an exemption protest, the trial court lacked jurisdiction over those claims.

The court further held that jurisdiction existed only as to a narrow § 25.25 correction claim for one aircraft and one tax year where a final ARB order existed and suit was timely filed.

The court also rejected the ultra vires claim, holding that the chief appraiser’s determination of whether property is income-producing and taxable involves statutory discretion. Misclassification of property does not constitute ultra vires conduct and cannot be used to circumvent the Tax Code’s exclusive remedies.

The court affirmed in part and otherwise reversed and rendered dismissal for lack of jurisdiction.

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BANKRUPTCY COURT’S ABSTENTION UNDER 11 U.S.C. § 505 IS NOT A MERITS DETERMINATION AND DOES NOT BAR TAX SUIT; RES JUDICATA, COLLATERAL ESTOPPEL, AND MOOTNESS INAPPLICABLE

Rolling Oaks Mall LLC v. Bexar Appraisal Dist., No. 04-25-00241-CV, 2026 WL 516452 (Tex. App.—San Antonio Feb. 25, 2026, no pet. h.) (mem. op.)

A property owner challenged its 2021 ad valorem tax valuation after completing the administrative process and filing suit in district court. During the pendency of the dispute, the owner filed for Chapter 11 bankruptcy and initiated a proceeding under 11 U.S.C. § 505 seeking a determination of its tax liability in bankruptcy court. The bankruptcy court dismissed the § 505 action “with prejudice,” and the federal district court affirmed, clarifying that the bankruptcy court had exercised its discretion to abstain from deciding the tax issue.

Relying on that dismissal, the appraisal district moved for summary judgment in the state court proceeding, asserting affirmative defenses of res judicata, collateral estoppel, and mootness. The trial court granted summary judgment in favor of the appraisal district.

The court of appeals reversed. It held that the controlling federal decision established that the bankruptcy court’s dismissal was based on abstention, not a merits determination. Because no merits adjudication occurred, the essential elements of res judicata and collateral estoppel were not satisfied, and a live controversy remained, defeating mootness.

The court further held that the taxpayer conclusively negated the appraisal district’s affirmative defenses and was entitled to summary judgment on those defenses as a matter of law. The court rejected judicial estoppel, noting the taxpayer did not prevail in bankruptcy and consistently maintained that the tax dispute could proceed in state court.

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FACT ISSUE ON TIMELY MAILING OF TAX PAYMENT DEFEATS PLEA TO THE JURISDICTION; § 1.08 MAILBOX RULE APPLIES

Appraisal district filed a plea to the jurisdiction, arguing that the property owner forfeited its appeal under Tex. Tax Code § 42.08 by failing to timely pay taxes before the delinquency date. The district relied on evidence that payment was received after the deadline, while the taxpayer presented affidavits and supporting documentation showing that the payment was deposited in the mail before the deadline.

The court of appeals affirmed the denial of the plea. It held that under Tex. Tax Code § 1.08, a tax payment is timely if mailed before the delinquency date with satisfactory proof of mailing, even if received later. The taxpayer’s affidavit and supporting evidence—showing delivery of the payment to the post office before the deadline—were sufficient to raise a fact issue on timely mailing.

Because a fact issue existed on the jurisdictional prerequisite, the trial court properly denied the plea.

MORE THAN A SCINTILLA OF EVIDENCE OF UNEQUAL APPRAISAL DEFEATS NO-EVIDENCE SUMMARY JUDGMENT

Kelel v. Dallas Cent. Appraisal Dist., No. 05-25-00107-CV, 2026 WL 315161 (Tex. App.—Dallas Feb. 5, 2026, no pet.) (mem. op.)

A property owner challenged the appraised value of a vacant lot after the ARB affirmed a valuation of \$74,250. At the administrative hearing, the owner presented comparable property evidence showing significantly lower values, but the ARB declined to adjust the value.

In the district court, the appraisal district filed a no-evidence motion for summary judgment. In response, the taxpayer submitted comparable property data, the ARB decision, and correspondence reflecting the appraisal district’s willingness to reduce the value during settlement discussions.

The court of appeals held that this evidence constituted more than a scintilla and raised a genuine issue of material fact on unequal appraisal. The court reversed the summary judgment and remanded for further proceedings.

CO-TENANT LACKED AUTHORITY UNDER TEX. TAX CODE § 32.06 TO TRANSFER TAX LIENS ENCUMBERING NON-CONSENTING OWNERS’ INTERESTS

Smith v. Casey Lending, LLC, No. 01-22-00954-CV, 2026 WL 233133 (Tex. App.—Houston [1st Dist.] Jan. 29, 2026, no pet.) (mem. op.)

A lender sought to enforce a transferred tax lien against the entire property based on authorization from one co-tenant. A non-consenting co-owner challenged the lien.

The court of appeals held that a co-tenant may authorize payment and transfer of tax liens only as to the interest he owns, not the interests of other owners. Relying on *Trimble v. Farmer*, 157 Tex. 533, 305 S.W.2d 157 (1957), the court concluded that § 32.06 does not expand a co-tenant’s authority.

Because the co-tenant lacked authority to encumber another owner’s interest, the lien was unenforceable as to that interest.

TRIAL COURT ABUSED DISCRETION BY ORDERING § 34.08 DEPOSIT IN A LAWSUIT CHALLENGING THE VALIDITY OF A TAX FORECLOSURE SALE DESPITE AN UNCONTESTED AFFIDAVIT OF INABILITY TO PAY BEING FILED

A property owner filed a bill of review challenging the validity of a tax foreclosure sale and the resulting transfer of title. The trial court ordered him to deposit more than \$60,000 into the registry of the court under Tex. Tax Code § 34.08, representing delinquent taxes, penalties, interest, and costs of sale.

Instead of making the deposit, the owner filed a sworn Rule 145 statement of inability to pay, which was not contested by any party. Without holding an evidentiary hearing or making findings regarding the owner’s ability to pay, the trial court nevertheless ordered the deposit.

Relying on the Texas Supreme Court’s decision in *Mitchell v. MAP Res., Inc.*, 649 S.W.3d 180 (Tex. 2022), the court of appeals explained that although § 34.08 imposes a mandatory deposit requirement, due process limits how and when that requirement may be enforced. When an owner files an uncontested Rule 145 affidavit, the statutory deposit mandate must yield to Rule 145’s procedural protections.

Under *Mitchell*, an owner deprived of due process is entitled to notice of the amount to be deposited and a meaningful opportunity to comply by deposit or affidavit before dismissal. Because an uncontested Rule 145 statement is conclusive as a matter of law, the trial court had no discretion to require payment absent a proper contest, notice, hearing, and findings.

The court also rejected the argument that the affidavit had to be filed contemporaneously with the lawsuit, holding that § 34.08 deficiencies may be cured after suit is filed.

PROPERTY OWNER DID NOT FORFEIT APPEAL WHERE EVIDENCE RAISED FACT ISSUE THAT TAX PAYMENT WAS TIMELY MAILED BEFORE DELINQUENCY DATE

Harris Cent. Appraisal Dist. v. LXMI Copper Cove Prop. Owner, LLC, No. 14-24-00624-CV, 2026 WL 88658 (Tex. App.—Houston [14th Dist.] Jan. 13, 2026, no pet.) (mem. op.)

A property owner challenged the appraised value of its apartment complex. The appraisal district responded with a plea to the jurisdiction, contending that the owner forfeited its appeal by failing to timely pay taxes as required by Tex. Tax Code § 42.08. The appraisal district presented evidence showing that the tax payment was received on February 17, after the February 1 delinquency date.

The property owner presented affidavits and supporting documents from its tax agent showing that the check was physically delivered to a post office on January 31. This evidence was sufficient to raise a fact issue as to timely mailing.

The court of appeals affirmed the denial of the plea. It explained that under Tex. Tax Code § 1.08, a tax payment is timely if it is properly addressed, mailed before the delinquency date, and supported by satisfactory proof of mailing, even if the payment is received later.

Because the appraisal district failed to conclusively establish forfeiture of the appeal, the trial court properly denied the plea to the jurisdiction.

AFFORDABLE HOUSING EXEMPTION UPHELD; TEX. TAX CODE § 11.1825 DOES NOT REQUIRE COUNTY RESIDENT OR “ACTIVE” PARTICIPATION BY LOW-INCOME HOUSEHOLDS

Frio Cnty. Appraisal Dist. v. Westview Ranch OTM Harmony LP, No. 08-25-00041-CV, 2026 WL 88101 (Tex. App.—El Paso Jan. 12, 2026, no pet.) (mem. op.)

Westview Ranch sought a property tax exemption under Tex. Tax Code § 11.1825 for a rehabilitated multifamily development providing affordable housing to low-income residents. The appraisal district denied the exemption, asserting that Westview failed to comply with § 11.1825(b)(4), which requires a

formal policy for giving notice to and receiving advice from low-income households residing in the county.

The appraisal district emphasized that members of Westview’s board who provided input did not reside in the county and argued that the statute requires more active engagement with local residents.

The trial court granted summary judgment for the taxpayer, and the court of appeals affirmed. The court held that Westview’s written policy—allowing ongoing input through multiple channels—satisfied the statute. It rejected the appraisal district’s attempt to impose requirements not found in § 11.1825 and declined to judicially amend the statute.

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IMPORT-EXPORT CLAUSE: CRUDE OIL HELD FOR EXPORT

A series of recent decisions from the Corpus Christi–Edinburg court of appeals has clarified the application of the Import-Export Clause to crude oil held in coastal tank farms pending shipment abroad.

CRUDE OIL HELD IN TANK FARMS FOR EXPORT WAS IN THE “STREAM OF EXPORT” AND EXEMPT FROM AD VALOREM TAXATION

San Patricio Cnty. Appraisal Dist. v. Gunvor USA LLC, Nos. 13-24-00590-CV & 13-25-00027-CV, 2026 WL 59714 (Tex. App.—Corpus Christi–Edinburg Jan. 8, 2026, pet. filed) (mem. op.)

Appraisal district assessed ad valorem taxes on large volumes of crude oil stored in coastal tank farms in San Patricio County on January 1, even though the oil had already been sold for delivery to foreign destinations. The taxpayers contended that the oil was exempt under the Import-Export Clause because it had entered the stream of export and could not be diverted to domestic use.

The court of appeals affirmed summary judgment for the taxpayers. Relying heavily on *Virginia Indonesia Co. v. Harris Cnty. Appraisal Dist.*, 910 S.W.2d 905 (Tex. 1995), the court held that goods bound for a pre-committed foreign destination enter the stream of export when their movement toward export begins, even if temporarily stored.

The court rejected the appraisal district’s argument that constant or large-volume presence in tank farms defeated export status, holding that fungible commodities must be analyzed as a mass rather than barrel-by-barrel.

It further held that required tank-storage “heels” did not interrupt export continuity.

The court concluded that storage was attributable to the necessities of export logistics—aggregating sufficient volume to load vessels—not to a domestic business purpose. Because the oil remained in uninterrupted export transit, it enjoyed bright-line immunity from state property taxation.

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SUBSEQUENT CASES APPLYING GUNVOR

Following *Gunvor*, the court has consistently applied the same rule to materially indistinguishable facts.

In *San Patricio Cnty. Appraisal Dist. v. Vitol, Inc.*, No. 13-24-00413-CV, 2026 WL 393951 (Tex. App.—Corpus Christi–Edinburg Feb. 12, 2026, no pet.) (mem. op.), the court affirmed summary judgment for the taxpayer and rejected procedural challenges, applying *Gunvor* as controlling authority.

In *EOG Resources Marketing, LLC v. San Patricio Cnty. Appraisal Dist.*, No. 13-25-00305-CV, 2026 WL 775771 (Tex. App.—Corpus Christi–Edinburg Mar. 19, 2026, no pet. h.) (mem. op.), the court applied *Gunvor* and rendered judgment for the taxpayer, emphasizing that pre-sale to foreign buyers, exclusive use of foreign-flag vessels, and temporary storage for shipment conclusively establish export status.

Taken together, these cases establish a clear rule: crude oil pre-committed to foreign destinations and temporarily stored solely to facilitate export logistics is not subject to ad valorem taxation under the Import-Export Clause.



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