

TEXAS RETAILERS ARE PAYING DOUBLE TAX, YEAR AFTER YEAR

ALL Texas COUNTY APPRAISAL DISTRICTS (CAD) have a policy or practice of appraising held inventory at 100% of original cost¹ (BOOK VALUE (BV), HISTORICAL COST NEW (HCN) or REPLACEMENT COST NEW (RCN)). That practice seems to make sense to anyone trained in *accounting* because GAAP/IRS regulations do not allow depreciation on inventory,² but this *accounting* logic has no place in the world of *appraisal*, which is governed by an entirely different set of rules. For *appraisal* purposes, the Texas Constitution and the Texas PROPERTY TAX CODE (PTC) require a business's held inventory to be valued at **MARKET VALUE** (MV) in accordance with Texas Law,³ and GENERALLY ACCEPTED APPRAISAL METHODS AND TECHNIQUES (GAAM&T),⁴ unlike under GAAP/IRS, GAAM&T requires depreciation be considered.⁵ However, because CADs continually fail to distinguish *accounting* principles from *appraisal* methods, most Texas Retailers are typically paying DOUBLE the property tax on inventory, year after year.⁶ This can add up to tens of thousands, or even millions,⁷ of lost profits paid unnecessarily to Texas County coffers.

¹ See, e.g., Harris County Appraisal District, *Business & Industrial Property Division Value Calculation Guidelines, Tax Year 2023*, at p.1 ("Inventory = 100% ORIGINAL COST").

² See INTERNAL REVENUE SERV., PUBL'N NO. 946, HOW TO DEPRECIATE PROPERTY 5 (2015), <https://www.irs.gov/pub/irs-prior/p946--2014.pdf> ("Inventory. You cannot depreciate inventory because it is not held for use in your business.").

³ See TEX. CONST. art. VIII, § 1 ("All real property and tangible personal property ... shall be taxed in proportion to its value, which shall be ascertained as may be provided by law."); *id.* § 20 ("No property of any kind in this State shall ever be assessed for ad valorem taxes at a greater value than its fair cash market value ...").

⁴ See TEX. TAX CODE ANN. § 23.01(b) ("The market value of property shall be determined by the application of generally accepted appraisal methods and techniques.").

⁵ See INT'L ASS'N OF ASSESSING OFFICERS, STANDARD ON VALUATION OF PERSONAL PROPERTY § 7.2.1 at p.9 (Int'l Ass'n of Assessing Officers 2005) ("Appraisal practice must consider accrued depreciation in the forms of physical deterioration, functional obsolescence, and external (economic) obsolescence.").

⁶ See Timothy Johnson, Comment, *Texas Inventory Tax: Appraisal Districts' Misunderstanding of the Law Causing Texas Retailers to Pay the Price*, 47 St. Mary's L.J. 399 (2015) (discussing in greater detail the confusion between accounting and appraisal).

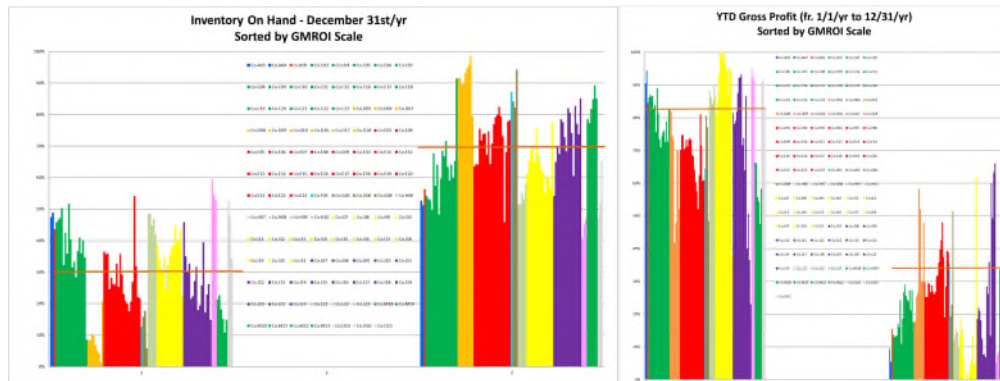
⁷ The chart below demonstrates the savings of various companies that have made use of Agent's methods as introduced in this Article, through 2024 (All Retail **Furniture** (with some having Appliances and/or Electronics) stores, except Mellow Johnny is a Bike Shop):

Store Name	Time Frame	Total
Lacks Valley Stores, Ltd	2006 thru 2024	\$ 3,661,704
FAMSA Inc.	2007 thru 2024	\$ 1,918,345
LFD Holding, LLP	2008 thru 2024	\$ 1,172,386
Lack's Stores, Inc.	2007-2011	\$ 615,584
Stacy's Furniture	2010 thru 2024	\$ 894,855
DSG (formerly HCH/HFP) dba Ashley	2012 thru 2024	\$ 4,755,946
John WM Fine Furn & Int Inc	2006-2020	\$ 457,470
DKO Enterprises L.P.	2006 thru 2024	\$ 444,520
Parra Furniture, Inc.	2006 thru 2024	\$ 269,447
MAF	2023 thru 2024	\$ 26,759
Max Fine Furniture & Appliance, Inc.	2012 thru 2024	\$ 228,325
Blake Furniture	2010 thru 2024	\$ 326,712
Mellow Johnnys, LLC	2013 thru 2024	\$ 114,808
National Furniture	2006 only	\$ 10,607
Gallery Furniture	2018- 2020	\$ 343,642
Conn Appliances, Inc.	2018 thru 2024	\$ 9,840,862
Louis Shanks of Texas	2019 to 2023	\$ 113,670
Wilcox Furniture	2020 & 2021	\$ 26,617
RTG Furniture of Texas, LP	2018 thru 2024	\$ 1,271,423

"net net" means the difference in tax liability from the tax based on the higher of CAD's Noticed Value or Historical Cost on the inventory and the tax based on the final value resulting from application of agent's methods, and after tax agent fees are paid.

Regardless of the erroneous practice of Texas CADs—valuing inventory at BV (as the lower of cost or market⁸)—Texas law makes clear there is a distinct definition for market value for *appraisal* purposes that has nothing to do with a business’s *accounting* values: “the market value of an inventory is the price for which it would sell as a *unit* to a purchaser who would continue the business.”⁹ What would you pay to buy a competitor’s entire stock of showroom samples, or their warehouse holdings? In other words, what would you, as a business seeking to turn a profit, pay for the sum of another business’s unsold leftovers, which are overstocked, out-of-box, devoid of warranties and discounts, and potentially suffering some level of wear-and-tear, and of which—as suggested by application of the 80/20 principle—only roughly 20% can be considered profitable? Any knowledgeable retailer would not likely offer more than 50% of original cost to buy a held inventory; therefore, the market value, as defined by the Texas PTC, of a retailer’s inventory for ad valorem tax purposes should be no more than 50% of its original cost.

The rub is that Texas CADs have been, incorrectly and without any evidence, arbitrarily setting values at cost for over forty years; so long that they truly believe they are actually right. For a Retailer to overturn the CAD’s flawed reasoning requires massive amounts of supporting data to demonstrate the reality of the retailer’s market-place. One Texas Appraiser and Tax Agent, Robert X. Johnson, has been working on this problem since 2005 and has achieved substantial tax reductions 97%¹⁰ of the time by following the basic guidelines of GAAM&T¹¹ and long-standing court precedent.¹² The graphs below show some of the data the Tax Agent has gathered from many furniture retailers over many years to demonstrate the predicted reality of the 80/20 rule—showing that a minor part of what you have produces most of what you want GROSS MARGIN (GM).



The conclusion that becomes objectively clear is that a held inventory can in no way be considered as valuable as a brand new, in-the-box, fully-warrantied, and with-an-unproven-sales-history inventory. Of course, there are a multitude of nuances to work out for any particular retailer, but with great confidence, any retailer should be able to reduce their yearly property tax liability substantially.

⁸ The term “market,” as used in GAAP, is a homonym of the term “market,” as used in GAAM&T.

⁹ Tax § 23.12(a) (emphasis added).

¹⁰ Only 32/1065 (~3%) of renditions filed ended unacceptably (≥ 90% of Historical Cost New).

¹¹ See INT’L ASS’N OF ASSESSING OFFICERS, PROPERTY APPRAISAL AND ASSESSMENT ADMINISTRATION 79 (Joseph K. Eckert et al. eds., 1990) (“The Legal Definition of Market Value - Although the term value remains difficult to define, the term market value is well defined. The constitutions and statutes of states, provinces, and nations have precise, **but different, definitions of market value**. The assessor should refer to the definition of market value found in the statutes and **court decision** of the state or province in which the jurisdiction is located.” (emphasis added)).

¹² See *Cleveland, Cincinnati, Chi. & St. Louis Ry. v. Backus*, 154 U.S. 439, 445 (1894) (“[T]he value of property results from the use to which it is put **and varies with the profitability of the use, present and prospective, actual and anticipated**. There is no pecuniary value outside of that which results from such use.” (emphasis added)).

Respectfully,



Robert X. Johnson, SPTC, PPS

SENIOR PROPERTY TAX CONSULTANT (SPTC), TDLR¹³ Registration #10365

PERSONAL PROPERTY SPECIALISTS (PPS), A certified appraiser designation (only one in Texas serving in the public, there's only 23 worldwide) from the INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS (IAAO)

Phone: (210) 379-7773; also, text or voice mail

Fax: (210) 545-5789

Email: TBLC@TxBLC.onmicrosoft.com

Physical address: 12951 Huebner Rd., Box # 780487, San Antonio, TX, 78278

US mail address: PO Box 780487, San Antonio, TX 78278

Additional credentials:

PROFESSIONAL REGISTERED PARLIAMENTARIAN-RETIRED (PRPR),

A designation from the NATIONAL ASSOCIATION OF PARLIAMENTARIANS (NAP)

Former State Parliamentarian for the Republican Party of Texas

Statistical analysis done by:

Joshua Davidson

MASTERS OF SCIENCE IN DATA ANALYTICS (MS), University of Texas at San Antonio

PROPERTY TAX CONSULTANT (PTC), TDLR Registration #13161

With legal matters reviewed by an Attorney

NOTICE: Regulated by The Texas Department of Licensing and Regulation,
P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.tdlr.texas.gov.

¹³ NOTICE: "Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512-463-6599; website: www.tdlr.texas.gov."