

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1319
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Finance
3/30/1999
Committee Report (Substituted)

DIGEST

Currently, the state's tax record-keeping, tax reporting, and auditing processes are often long and excessively burdensome for business taxpayers. This bill would authorize certain taxpayers to perform managed audits under the supervision of the comptroller of public accounts office and certain businesses could assess the taxability of their purchases through a percentage-based reporting method, and could assess tax refunds due by a sampling method.

PURPOSE

As proposed, C.S.S.B. 1319 revises the tax auditing and collection procedures.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller of public accounts in SECTION 2 and SECTION 3 (Section 151.4171(f), and Section 151.430(e), Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 151B, Tax Code, by adding Section 151.0231, as follows:

Sec. 151.0231. MANAGED AUDITS. Defines "managed audit." Authorizes a managed audit to be limited to certain categories of liability under this chapter. Authorizes the comptroller of public accounts (comptroller), in a written agreement, to authorize a taxpayer to conduct a managed audit under this section. Sets forth certain requirements for the agreement. Sets forth certain factors the comptroller may consider in determining whether to authorize a managed audit. Provides that the decision to authorize or not authorize a managed audit rests solely with the comptroller. Authorizes the comptroller to examine records and perform reviews that the comptroller determines are necessary before the audit is finalized to verify the results of the audit. Prohibits the comptroller from assessing a penalty and may waive all or part of the interest that would otherwise accrue on any amount identified to be due in a managed audit, unless the audit or information reviewed by the comptroller under Subsection (f) discloses fraud or wilful evasion of the tax. Provides that this subsection does not apply to any amount collected by the taxpayer that was a tax or represented to be a tax but that was not remitted to this state. Provides that the taxpayer is entitled to a refund of any tax overpayment disclosed by a managed audit under this section, except as provided by Section 111.104(f).

SECTION 2. Amends Chapter 151I, Tax Code, by adding Section 151.4171, as follows:

Sec. 151.4171. OPTIONAL REPORTING METHOD: PERCENTAGE-BASED. Defines "percentage-based reporting method." Authorizes the comptroller to authorize the holder of a direct payment permit to use a percentage-based reporting method. Requires the authorized percentage to be used for a three-year period specified by the comptroller, unless the authorization is revoked by the comptroller. Authorizes the comptroller to revoke the authorization to report under this section if the comptroller determines that the percentage being used is no longer representative because of a change in the law or in the taxpayer's business operations. Provides that the decision of the comptroller to deny or revoke authorization under this section is not appealable. Authorizes the comptroller to categorize transactions by dollar amount, by type of taxable item purchased, by the purpose for which the taxable item will be used, or by other standards appropriate to the taxpayer's operations, in deciding whether to authorize reporting under this section. Authorizes the comptroller, by rule, to specify additional procedures that must be followed and conditions that must be met before the comptroller authorizes a taxpayer to report under this section.

SECTION 3. Amends Chapter 151I, Tax Code, by adding Section 151.430, as follows:

Sec. 151.430. DETERMINATION OF OVERPAID AMOUNTS. Provides that this section applies to the tax on purchases paid by a person holding a permit under this chapter who has purchased taxable items for use in this state and has remitted tax on those items in error to this state or has paid tax on those items in error to a retailer holding a permit under this chapter. Authorizes a person to whom this section applies to compute the amount of overpayment by use of a projection based on a sampling of transactions. Requires the sampling method used to comply with generally accepted sampling methods as approved by the comptroller. Authorizes the person to obtain reimbursement for amounts determined to have been overpaid by taking a credit on one or more sales tax returns or by filing a claim for refund with the comptroller within the limitation period specified by Chapter 111D. Requires the person to record the method by which the projection and computation were performed and to make available on request by the comptroller the records on which the projection and computation were based. Authorizes the comptroller to adopt rules specifying additional procedures that must be followed in connection with claiming a credit under this section.

SECTION 4. Effective date: October 1, 1999.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Chapter 151B, Tax Code, by adding Section 151.0231, regarding managed audits. Deletes existing SECTION 1 concerning self-auditing under the supervision of the comptroller of public accounts and percentage-based reporting.

SECTION 2.

Amends Chapter 151I, Tax Code, by adding Section 151.4171, regarding an optional reporting method that is percentage-based. Deletes existing SECTION 2 concerning tax credits and tax deficiencies.

SECTION 3.

Amends Chapter 151I, Tax Code, by adding Section 151.430, regarding the determination of overpaid amounts. Deletes existing SECTION 3 concerning the effective date of this Act.

SECTION 4.

Effective date: October 1, 1999. Deletes existing SECTION 4 concerning the emergency clause.

SECTION 5.

Emergency clause.