

BILL ANALYSIS

Senate Research Center
76R10900 DAK-F

C.S.S.B. 1488
By: Armbrister
Finance
4/20/1999
Committee Report (Substituted)

DIGEST

Each legislative session, the comptroller of public accounts identifies certain aspects of the Tax Code that contain technical errors, ambiguous language, or outdated section references, and suggests amendments that would correct, conform, or ease the administration of those provisions. This bill would make changes to statutes involving taxes or fees administered by the comptroller of public accounts.

PURPOSE

As proposed, C.S.S.B. 1488 makes changes to statutes involving taxes or fees administered by the comptroller of public accounts.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller of public accounts in SECTION 76 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 102.075(g), Code of Criminal Procedure, to authorize a municipality or county to retain 10 percent of the money collected under this article as a service fee for collection if the municipality or county remits the funds to the comptroller of public accounts (comptroller) within the period prescribed in Subsection (f). Makes a nonsubstantive change.

SECTION 2. Amends Section 12(b), Article 1.14-1, Insurance Code, to provide that the report and tax are due on or before May 15, rather than March 1, of the calendar year after the calendar year in which the insurance was procured, continued, or renewed or on another date prescribed by the comptroller.

SECTION 3. Amends Sections 12(a) and (b), Article 1.14-2, Insurance Code, to require the surplus lines agent to file a report and pay taxes to the comptroller by a certain date on forms prescribed by the comptroller. Requires the amount of taxes to be based on gross premiums written or received for such insurance placed through an eligible surplus lines insurer during the calendar year ending on the preceding December 31. Requires a tax prepayment to be required any time accrued taxes due equal or exceed \$70,000. Requires the prepayment of the accrued taxes, with a form prescribed by the comptroller, to be due by the 15th day of the month following the month in which accrued taxes total \$70,000. Deletes text providing that all surplus lines premium receipt taxes are required to be maintained by the surplus agent in a separate account and not mingled. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 9(b), Article 3.50-3, V.T.C.S. (Texas State College and University Employees Uniform Insurance Benefits Act), to provide that premiums on policies, insurance contracts, or agreements with health maintenance organizations established under this Act are not subject to any state tax, regulatory fee, or surcharge.

SECTION 5. Amends Section 11(b), Article 3.50-4, V.T.C.S. (Texas Public School Employees Group Insurance Act), to make a conforming change.

SECTION 6. Amends Section 326.029(a), Local Government Code, to require the commissioners court, if a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax, to declare, by resolution or order, rather than by ordinance, that the district is created.

SECTION 7. Amends Section 326.092(a), Local Government Code, to make conforming changes.

SECTION 8. Amends Section 101.003, Tax Code, by adding Subdivision (13), to define “tax.”

SECTION 9. Amends Section 111.0041(b), Tax Code, to delete text providing that this section prevails over conflicting provisions of this title except Section 191.024(b).

SECTION 10. Amends Section 111.023, Tax Code, to authorize the comptroller to require that a report, return, declaration, claim for refund, or other document that is required or permitted to be filed with the comptroller and that is submitted by an attorney, accountant, or other representative of a taxpayer, rather than a person, on behalf of the taxpayer be accompanied by express written authorization of the taxpayer in whose name or on whose behalf it is purportedly submitted. Authorizes an officer, director, or employee of the taxpayer whose duties include administering the taxpayer’s rights and responsibilities with the comptroller to sign the written authorization. Requires the authorization to include the title and telephone number of the officer, director, or employee who signs the authorization for verification by the comptroller. Authorizes the comptroller to impose a requirement of Subsection (b) on a taxpayer’s assignment of a claim for refund. Makes conforming changes.

SECTION 11. Amends Section 111.104(e), Tax Code, to delete text providing that this section does not apply to those taxes that qualify for refund allowed under Section 151.318(g) or (n).

SECTION 12. Amends Section 111.107, Tax Code, to delete text providing certain conditions when a refund or credit is not permitted.

SECTION 13. Amends Sections 151.310(c) and (e), Tax Code, to provide that the sale of certain taxable items is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. Requires a nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) to provide community benefits that include charity care and government-sponsored indigent health care, as set forth in Chapter 311D, Health and Safety Code, rather than community benefits as set forth in certain subdivisions of this section. Deletes text setting forth the community benefits, defining certain terms for the purposes of this subsection, and providing regulations regarding the provision of charity care and government-sponsored indigent health care.

SECTION 14. Amends Section 151.3101, Tax Code, by adding Subsection (c), to define “educational organization.”

SECTION 15. Amends Section 151.312, Tax Code, to provide that periodicals and writings, including those presented on audio tape, video tape, and computer disk, that are published and distributed by certain organizations are exempted from the taxes imposed by this chapter.

SECTION 16. Amends Sections 151.318, Tax Code, by amending (a), (c), (o), (q), and (s), and adding Subsection (f), to provide that certain items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer. Sets forth certain items that are eligible for the exemption from the taxes imposed by this chapter. Provides that for purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. Provides that an integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment. Deletes text setting forth certain items that are eligible for the exemption. Deletes text providing that “semiconductor fabrication cleanrooms and equipment” are not “intraplant transportation equipment” as that term is used in Subsection (c)(1). Makes conforming and nonsubstantive changes.

SECTION 17. Amends Section 151.318, Tax Code, by adding Subsection (t), to set forth certain items that are exempt from the tax imposed by this chapter if they are purchased by a person engaged in certain businesses.

SECTION 18. Amends Chapter 151H, Tax Code, by adding Section 151.3185, as follows:

Sec. 151.3185. PROPERTY USED IN THE PRODUCTION OF MOTION PICTURES OR VIDEO OR AUDIO RECORDINGS AND BROADCASTS. Sets forth certain items in which the sale, lease, or rental or storage, use or other consumption of those items are exempted from the taxes imposed by this chapter. Sets forth certain items not included in the exemption. Provides that a production described by Subsection (a)(2)(A) or (B) does not include a production for broadcast that is not intended to be broadcast to either the general public or to cable television service subscribers or paying customers.

SECTION 19. Amends Section 151.321(a), Tax Code, to provide that a taxable item sold by a qualified student organization and for which the sales price is \$5,000 or less, is exempted from the taxes imposed by Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C, regardless of sales price unless sold to the donor, if the student organization meets certain conditions.

SECTION 20. Amends Section 151.350(d), Tax Code, to redefine “restore.”

SECTION 21. Amends Chapter 151H, Tax Code, by adding Section 151.354, as follows:

Sec. 151.354. SERVICES BY EMPLOYEES OF PROPERTY MANAGEMENT COMPANIES. Sets forth the conditions under which services performed by an employee of a property management company are exempted from the taxes imposed by this chapter. Provides that this exemption does not apply to services performed by an employee for properties other than the one to which the employee is permanently assigned. Provides that a person is an employee of a property management company if either the property management company or an affiliate of the property management company employs the person. Sets forth certain required actions of the property management company. Requires the property management company or the affiliate to pay tax on the taxable items purchased and provided to employees providing services on managed property. Defines “property management company.” Provides that a corporation, limited liability company, partnership, trust or estate is an affiliate of the property management company if an 80 percent ownership interest in the property management company or such corporation, limited liability company, partnership, trust or estate is held by the other, or if a third person has an 80 percent ownership interest either directly or indirectly in both the property management company and such corporation, limited liability company, partnership, trust or estate.

SECTION 22. Amends Section 151.426, Tax Code, by amending Subsection (c) and adding Subsections (e)-(i), to provide that a retailer or any person who extends credit to a purchaser under a retailer’s private label credit agreement, or an assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of certain amounts, subject to Subsection (e). Provides that a person is entitled to a credit or reimbursement provided by Subsection (c) only under certain conditions. Authorizes a person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the reimbursement or credit to take certain actions under certain conditions. Authorizes the comptroller to revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of certain changes. Requires a person claiming a credit or reimbursement under this section to remit tax on any payments received on an account that has been written off and claimed as a bad debt. Authorizes a person who is not a retailer to claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

SECTION 23. Amends Section 151.426, Tax Code, by adding Subsection (j), to define “affiliate.”

SECTION 24. Amends Sections 151.429(d) and (g), Tax Code, to require the Texas Department of Economic Development, rather than the department of commerce, to provide the comptroller with the assistance that the comptroller requires in administering this section. Makes conforming changes.

SECTION 25. Amends Section 151.429(e)(1), Tax Code, to make a conforming change.

SECTION 26. Amends Sections 151.4291(d) and (g), Tax Code, to make conforming changes.

SECTION 27. Amends Section 151.4291(e)(1), Tax Code, to make a conforming change.

SECTION 28. Amends Section 151.431(a), Tax Code, to make a conforming change.

SECTION 29. Amends Section 152.002, Tax Code, by adding Subsection (d), to authorize a person who holds a lessor license under Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), or is specifically not required to obtain a lessor license under Section 4.01(a) of that Act to deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person under certain conditions.

SECTION 30. Amends Section 152.041, Tax Code, to authorize the county tax assessor-collector, if a motor vehicle title applicant has paid the tax to the seller who is required by this chapter to collect the tax and the seller has failed to remit the tax to the tax assessor-collector, to accept application for title to the motor vehicle without the payment of additional tax by the applicant. Requires the motor vehicle title applicant to present satisfactory documentation to the tax assessor-collector that the tax was paid, before title to the motor vehicle may be issued under these circumstances. Requires the county tax assessor-collector to notify the comptroller in writing of the seller's failure to remit the tax. Sets forth the requirements of the notice.

SECTION 31. Amends Sections 153.117(a), (b), (d), and (h), Tax Code, to require a distributor to keep a record showing the number of gallons of all gasoline lost by theft, or accident. Makes conforming changes.

SECTION 32. Amends Sections 153.119(a) and (e), Tax Code, to delete text providing that certain people are entitled to the reimbursement of the tax paid by him, less a filing fee and any amount allowed to wholesalers or jobbers, dealers, or others under Section 153.105(c). Makes conforming changes.

SECTION 33. Amends Section 153.121(a), Tax Code, to make conforming changes.

SECTION 34. Amends Section 153.206, Tax Code, by adding Subsection (j), to require the amount of tax in each subsequent sale of diesel fuel on which the tax has been collected to be added to the selling price so that the tax is paid ultimately by the person using or consuming the diesel fuel for the purpose of propelling a vehicle on the public highways of this state.

SECTION 35. Amends Sections 153.219(a) - (d), and (i), Tax Code, to make conforming changes.

SECTION 36. Amends Section 153.222(e), Tax Code, to make conforming changes.

SECTION 37. Amends Section 153.224(a), Tax Code, to make conforming changes.

SECTION 38. Amends Section 154.114(c) and (g), Tax Code, to require the comptroller to deliver, rather than mail by certified mail, return receipt requested, the written notice by personal service or by mail, to the permit holder's mailing address as it appears on the comptroller's records. Provides that service by mail is complete when the notice is deposited with the U.S. Postal Service, rather than received, as evidenced by return receipt. Requires the comptroller, if the comptroller suspends or revokes a permit, to provide written notice of the suspension or revocation to each distributor or wholesaler permit holder in the state. Makes conforming changes.

SECTION 39. Amends Section 154.210(a), Tax Code, to require the distributor to deliver to the comptroller, on or before the last day of each month, rather than the 15th day, a report for the preceding month.

SECTION 40. Amends Section 154.308(b), Tax Code, to make conforming changes.

SECTION 41. Amends Sections 154.309(b) and (d), Tax Code, to require a written request for redetermination to be filed at the comptroller's office not later than the 30th day after the date notice of deficiency is issued, rather than the 15th working day after the date notice of deficiency is received. Makes conforming changes.

SECTION 42. Amends Section 155.059(c), Tax Code, to make conforming changes.

SECTION 43. Amends Section 155.103(b), Tax Code, to make a conforming change.

SECTION 44. Amends Section 155.111(a), Tax Code, to make a conforming change.

SECTION 45. Amends Section 155.185(b), Tax Code, to make conforming changes.

SECTION 46. Amends Sections 155.186(b) and (d), Tax Code, to make conforming changes.

SECTION 47. Amends Section 156.102, Tax Code, to set forth corporations and associations that this chapter does not impose a tax upon. Provides that an institution of higher education is organized and operated exclusively for an educational purpose only if the institution is defined as an institution of higher education under any subdivision of Section 61.003, Education Code.

SECTION 48. Amends Sections 156.103(a), (b), (c), and (d), Tax Code, to set forth the entities that this chapter does not impose a tax on. Requires this state, or an agency, institution, board, or commission of this state other than an institution of higher education, to pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid in accordance with Section 156.154, rather than a governmental entity otherwise excepted under this section. Deletes text setting forth entities that this chapter does not impose a tax on. Makes conforming and nonsubstantive changes.

SECTION 49. Amends Section 171.063, Tax Code, by amending Subsection (a) and by adding Subsection (h), to authorize a requirement that a nonprofit hospital provide charity care and community benefits under Subsection (a)(1) to be satisfied by a donation of money to the Texas Healthy Kids Corporation, established by Chapter 109, Health and Safety Code, under certain conditions. Makes conforming changes.

SECTION 50. Amends Sections 171.063(c) and (d), to provide that if the Internal Revenue Service (IRS) has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's provisional exemption under this section is sufficient if the corporation timely files with the comptroller evidence that the corporation has applied in good faith for the federal tax exemption. Requires the evidence to be filed by a certain date. Deletes text requiring the IRS's letter of exemption to be filed with the comptroller by a certain date. Makes conforming changes.

SECTION 51. Amends the heading of Subchapter C, Chapter 171, Tax Code, as follows:

SUBCHAPTER C. New heading: DETERMINATION OF TAXABLE CAPITAL AND TAXABLE EARNED SURPLUS; ALLOCATION AND APPORTIONMENT

SECTION 52. Amends the heading of Section 171.1015, Tax Code, as follows:

Sec. 171.1015. New heading: REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN AN ENTERPRISE ZONE.

SECTION 53. Amends Section 171.1015(f)(1), Tax Code, to make a conforming change.

SECTION 54. Amends Section 171.1015(g), Tax Code, to make a conforming change.

SECTION 55. Amends the heading of Section 171.1016, Tax Code, as follows:

Sec. 171.1016. New heading: REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN A READJUSTMENT ZONE.

SECTION 56. Amends Section 171.1016(f)(1), Tax Code, to make a conforming change.

SECTION 57. Amends Section 171.1016(g), Tax Code, to make a conforming change.

SECTION 58. Amends the heading of Section 171.107, Tax Code, as follows:

Sec. 171.107. New heading: DEDUCTION OF COST OF SOLAR ENERGY DEVICE FROM TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS APPORTIONED TO THIS STATE.

SECTION 59. Amends Section 171.110, Tax Code, by adding Subsections (i) and (j), to set forth for the purposes of this section, the conditions under which a person designated as an officer is presumed to be an officer. Authorizes a corporation to rebuke the presumption if it conclusively shows, through the

person's job description or other documentation, that the person does not participate or have authority to participate in significant policymaking aspects of the corporate operations.

SECTION 60. Amends Section 171.501(a), Tax Code, to make conforming changes.

SECTION 61. Amends the heading of Subchapter C, Chapter 183, Tax Code, as follows:

SUBCHAPTER C. New heading: MIXED BEVERAGE TAX CLEARANCE

SECTION 62. Amends the heading of Section 183.051, Tax Code, as follows:

Sec. 183.051. New heading: MIXED BEVERAGE TAX CLEARANCE.

SECTION 63. Amends Section 183.051(b), Tax Code, to require the comptroller to issue to each county described in Subsection (a) a warrant drawn on the general revenue fund, rather than the mixed beverage tax clearance fund, in an amount appropriated by the legislature that may not be greater than 10.7143 percent of mixed beverage receipts from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in a certain amount. Deletes text requiring the remainder of the receipts for the quarter and all interest earned on that fund to be transferred to the general revenue fund. Makes conforming changes.

SECTION 64. Amends Section 191.085(b), Tax Code, to require the person to keep the record open for four years, rather than two years, for inspection by the comptroller or the attorney general.

SECTION 65. Amends Section 203.051(a), Tax Code, to authorize a producer to destroy a record required by this section four years, rather than three years, after the last entry in the record.

SECTION 66. Amends Section 321.102, Tax Code, by adding Subsections (e)-(g), to provide that if as a result of the imposition or increase in a sales and use tax by a municipality in which there is located all or part of a local governmental entity that has adopted a sales and use tax or as a result of the annexation by a municipality of all or part of the territory in a local governmental entity that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed two percent, the entity's sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent. Requires the comptroller to withhold from the municipality's monthly sales and use tax allocation an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity less amounts that the entity collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the entity, if an entity's rate is reduced in accordance with Subsection (e). Requires the comptroller to withhold and pay the amount withheld to the entity under policies or procedures that the comptroller considers reasonable. Provides that a transit authority is not a local governmental entity for the purposes of Subsections (e) and (f).

SECTION 67. Amends Section 322.302, Tax Code, to require the comptroller at least quarterly, rather than twice, during each state fiscal year, to send to the person at each taxing entity who performs the function of entity treasurer the entity's share of the taxes collected by the comptroller under this chapter. Deletes text requiring the comptroller to make payments to certain entities quarterly.

SECTION 68. Amends Section 323.102(c), Tax Code, to provide that a tax imposed under Section 323.105 of this code or Chapter 326, Local Government Code, takes effect on a certain date.

SECTION 69. Amends Section 323.105(e), Tax Code, to require the comptroller to remit to the county amounts collected at a certain rate in a certain manner, if the district is composed of the entire county. Requires the comptroller, rather than the county, to remit the amount to the district, if the district is composed of an area less than the entire county.

SECTION 70. Amends Section 351.006, Tax Code, to provide that a United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter. Requires a state governmental entity described in Section 156.103(b) to pay the tax imposed by this chapter but is entitled to a refund of the tax paid. Makes conforming changes.

SECTION 71. Amends Section 352.007, Tax Code, to provide that a United States governmental entity

described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter. Requires a state governmental entity described in Section 156.103(b) to pay the tax imposed by this chapter but is entitled to a refund of the tax paid. Makes conforming changes.

SECTION 72. Reenacts Subsection 4B(e), Article 5190.6, V.T.C.S. (Development Corporation Act of 1979), as amended by Section 3, Chapter 1022, and Section 12, Chapter 1031, Acts of the 73rd Legislature, Regular Session, 1993, to set forth requirements regarding tax rates, election to reduce taxes, and excise taxes.

SECTION 73. Repealers: Section 151.318(g), Tax Code (regarding tangible personal property); Section 151.318(p), Tax Code (regarding motion picture production); Section 152.062(d), Tax Code (Required Affidavits).

SECTION 74. Provides that a tax to which SECTION 68 of this Act applies that is not being collected on the effective date of this Act and that was adopted at an election held before January 1, 1999, takes effect on the first day of the first calendar quarter that begins after the effective date of this Act.

SECTION 75. Sets forth certain provisions in which a change in law is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act.

SECTION 76. Authorizes the comptroller to adopt rules and take other actions before October 1, 1999, as the comptroller deems necessary or advisable to prepare for the taking effect of this Act.

SECTION 77. Effective date: October 1, 1999, except as provided by Subsections (b)-(d). Provides that SECTION 3 takes effect January 1, 2000, and makes application of this SECTION prospective. Provides that SECTIONS 49-60 take effect January 1, 2000, and makes application of those SECTIONS prospective. Provides that SECTIONS 66, 68, 74, and 76 take effect on the earliest date on which they may take effect under Section 39, Article III, Texas Constitution.

SECTION 78. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Amends Section 12(a), Article 1.14-2, Insurance Code, to make a nonsubstantive change.

SECTION 6.

Amends Section 326.029(a), Local Government Code, to require the commissioners court, if a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax, to declare, by resolution or order, rather than by ordinance, that the district is created.

SECTION 10.

Amends SECTION 10 to redesignate proposed SECTION 10 as SECTION 11. Deletes proposed Section 111.104(3), Tax Code, regarding the application of this section to all taxes and license fees collected or administered by the comptroller, and adds a new section regarding written authorization by the comptroller.

SECTION 11.

Redesignates proposed SECTIONS 11 and 12 as SECTIONS 12 and 13.

SECTION 14.

Amends Section 151.3101, Tax Code, by adding Subsection (c), to define "educational organization."

SECTION 15.

Redesignates proposed SECTION 13 as SECTION 15.

SECTION 16.

Amends Section 151.318, Tax Code, by amending Subsections (a), (c), (o), (q), and (s), and adding Subsection (f), to revise which items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer. Revises which items are eligible for the exemption from the taxes imposed by this chapter. Provides that for purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. Provides that an integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment. Deletes text setting forth certain items that are eligible for the exemption. Deletes text providing that “semiconductor fabrication cleanrooms and equipment” are not “intraplant transportation equipment” as that term is used in Subsection (c)(1), rather than are not “used incidentally in a manufacturing, processing, or fabrication operation” as that term is used in Subsection (c)(2). Makes conforming and nonsubstantive changes. Redesignates proposed SECTION 14 as SECTION 16.

SECTION 17.

Amends Section 151.318, Tax Code, by adding Subsection (t), to set forth certain items that are exempt from the tax imposed by this chapter if they are purchased by a person engaged in certain businesses.

SECTION 18.

Amends Chapter 151H, Tax Code, by adding Section 151.3185, regarding the tax exemption of certain property used in the production of motion pictures or video or audio recordings and broadcasts.

SECTION 19.

Redesignates proposed SECTIONS 15 and 16 as SECTIONS 19 and 20.

SECTION 21.

Amends Chapter 151H, Tax Code, by adding Section 151.354, regarding the tax exemption of services by employees of property management companies.

SECTION 22.

Amends Section 151.426, Tax Code, by amending Subsection (c) and adding Subsections (e)-(i), to provide that a retailer or any person who extends credit to a purchaser under a retailer’s private label credit agreement, or an assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of certain amounts, subject to Subsection (e). Provides that a person is entitled to a credit or reimbursement provided by Subsection (c) only under certain conditions. Authorizes a person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the reimbursement or credit to take certain actions under certain conditions. Authorizes the comptroller to revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of certain changes. Requires a person claiming a credit or reimbursement under this section to remit tax on any payments received on an account that has been written off and claimed as a bad debt. Authorizes a person who is not a retailer to claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

SECTION 23.

Amends Section 151.426, Tax Code, by adding Subsection (j), to define “affiliate.” Redesignates proposed SECTIONS 17-21 as SECTIONS 24-28.

SECTION 29.

Amends Section 152.002, Tax Code, by adding Subsection (d), to authorize a person who holds a lessor license under Article 4413(36), V.T.C.S. (Texas Motor Vehicle Commission Code), or is specifically not required to obtain a lessor license under Section 4.01(a) of that Act to deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person under certain conditions. Redesignates SECTION 22 as SECTION 30.

SECTION 31.

Amends Sections 153.117(a), (b), (d), and (h), Tax Code, to require a distributor to keep a record showing the number of gallons of all gasoline lost by theft, or accident. Makes conforming changes. Redesignates proposed SECTIONS 23-38 as SECTIONS 31-46.

SECTION 47.

Amends Section 156.102, Tax Code, to provide that an institution of higher education is organized and operated exclusively for an educational purpose only if the institution is defined as an institution of higher education under any subdivision of Section 61.003, Education Code. Redesignates proposed SECTIONS 39-54 as SECTION 47-62.

SECTION 63.

Amends Section 183.051(b), Tax Code, to make nonsubstantive changes. Redesignates proposed SECTIONS 55-57 as SECTION 63-65.

SECTION 66.

Amends Section 321.102, Tax Code, by adding Subsections (e)-(g), to provide that if as a result of the imposition or increase in a sales and use tax by a municipality in which there is located all or part of a local governmental entity that has adopted a sales and use tax or as a result of the annexation by a municipality of all or part of the territory in a local governmental entity that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed two percent, the entity’s sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent. Requires the comptroller to withhold from the municipality’s monthly sales and use tax allocation an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity less amounts that the entity collects following the municipality’s levy of or increase in its sales and use tax or annexation of the area in the entity, if an entity’s rate is reduced in accordance with Subsection (e). Requires the comptroller to withhold and pay the amount withheld to the entity under policies or procedures that the comptroller considers reasonable. Provides that a transit authority is not a local governmental entity for the purposes of Subsections (e) and (f). Deletes proposed SECTION 58.

SECTION 67.

Amends Section 322.302, Tax Code, to require the comptroller at least quarterly, rather than twice, during each state fiscal year, to send to the person at each taxing entity who performs the function of entity treasurer the entity’s share of the taxes collected by the comptroller under this chapter. Deletes text requiring the comptroller to make payments to certain entities quarterly. Redesignates proposed SECTIONS 59-63 as SECTIONS 68-72.

SECTION 73.

Adds repealers: Section 151.318(g), Tax Code (regarding tangible personal property); Section 151.318(p), Tax Code (regarding motion picture production). Redesignates proposed SECTION 64 as SECTION 73.

SECTION 74.

Provides that a tax to which SECTION 68 of this Act applies that is not being collected on the effective date of this Act and that was adopted at an election held before January 1, 1999, takes effect on the first day of the first calendar quarter that begins after the effective date of this Act.

SECTION 75.

Includes additional provisions in which a change in law is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act. Makes conforming changes. Redesignates proposed SECTIONS 65-68 as SECTION 75-78.