

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 742
By: Armbrister
Finance
4/23/1999
Committee Report (Substituted)

DIGEST

Currently, Section 111.061, Tax Code, imposes a mandatory penalty on tax underpayments that do not exceed 10 percent of the tax owed to the comptroller. Under Section 111.103, Tax Code, a waiver of the penalty is available, if the taxpayer exercised "reasonable diligence." However, there is no statutory definition for "reasonable negligence" to comply with the tax laws. C.S.S.B. 742 would define the factors to be used in determining the definition of "reasonable diligence," which will include factors such as "substantial authority" and "reasonable basis."

PURPOSE

As proposed, C.S.S.B. 742 sets forth provisions for the settlement of a claim for a tax penalty or interest on a tax.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 111.103, Tax Code, by adding Subsections (b) and (c), as follows:

(b) Provides that a taxpayer exercises reasonable diligence to comply with the provisions of this title in relation to a tax item when the taxpayer acts in good faith with respect to that item and substantial authority for the tax treatment of that item by the taxpayer existed at the time the taxpayer acted or at the time the claim is settled; or the taxpayer adequately discloses the relevant facts affecting the item's tax treatment in the report or in a statement attached to the report and there is a reasonable basis for that tax treatment.

(c) Requires the terms "substantial authority" and "reasonable basis" to be further defined in rules issued by the comptroller, but are intended to be generally consistent with the manner such terms have been implemented and interpreted for federal tax purposes.

SECTION 2. Effective date: on the first day of the first calendar quarter beginning on or after the earliest date that it may take effect under Section 39, Article III, Texas Constitution. Makes application of this Act prospective.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 111.103, Tax Code, by adding Subsection (c), to require the terms "substantial authority" and "reasonable basis" to be further defined in rules issued by the comptroller, but are intended to be generally consistent with the manner such terms have been implemented and interpreted for federal tax purposes.

SECTION 2.

Amends the effective date clause to apply to tax penalty or interest proposed on or after the effective date.

SECTION 3.

Amends the emergency clause to make a conforming change.