

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1125
Armbrister
Finance
3/30/2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Each legislative session the comptroller identifies certain aspects of the Tax Code that contain technical errors, ambiguous language, or outdated section references. C.S.S.B. 1125 proposes amendments that would correct, clarify, conform, or ease the administration of those provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 73 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 43.0751(k), Local Government Code, to authorize a municipality that has annexed all or part of a district for limited purposes under this section to impose a sales and use tax, rather than a retail sales tax, within the boundaries of the part of the district that is annexed for limited purposes. Provides that, except to the extent it is inconsistent with this section, the Municipal Sales and Use Tax Act (Chapter 321, Tax Code) governs the imposition, computation, administration, governance, and abolition of a municipal sales and use tax.

SECTION 2. Amends Section 326.023(b), Local Government Code, to require the petition to include a listing of all known businesses identified in the proposed boundaries of the district.

SECTION 3. Amends Sections 326.029, Local Government Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires the order canvassing the results of the election to contain a description of the district's boundaries together with a map of the district, and state the date of the election, and contain a listing of the total number of votes cast for and against the ballot proposition. Deletes language regarding filing in the deed records of the county.

(d) Requires the order issued by a commissioners court canvassing the results of the election to be filed in the deed records of the county in which the library district is located and mailed or delivered to the comptroller not later than the thirtieth day after the date the order is issued.

SECTION 4. Amends Chapter 363F, Local Government Code, by adding Section 363.262, as follows:

Section 363.262. Effective Date of Tax Change (a) Requires the board, if less than a majority of the votes cast in a continuation referendum are for the continuation of the district or if a majority of the votes cast in a dissolution referendum are for dissolution of the district, to notify the comptroller in writing of the results of the referendum not later than the 10th day after the date the referendum returns are canvassed.

(b) Provides that if the crime control district is to be dissolved or not continued as a

result of the referendum, the abolition of the local crime control sales and use tax takes effect on the first day of the first complete calendar quarter that occurs after the expiration of the first complete calendar quarter that occurs after the comptroller receives a notice of the results of the continuation or dissolution referendum.

(c) Provides that if the comptroller determines that an effective date provided by Subsection (b) will occur before the comptroller can reasonably take the action required to implement abolition of the tax, the comptroller may extend the effective date until the first day of the next succeeding calendar quarter.

SECTION 5. Amends Section 378.004, Local Government Code, as added by Chapter 305, Acts of the 76th Legislature, Regular Session, 1999, to delete language regarding abatements.

SECTION 6. Amends Section 383.104, Local Government Code, by adding Subsection (c) to provide that the district's sales and use tax is automatically discontinued by operation of law if no tax revenue is collected within the district before the anniversary of the date the tax took effect. Requires the comptroller to notify the board of directors and the commissioners court of the county in which the district is located of the discontinuance of the tax. Authorizes the district to authorize a new sales and use tax by following the procedures provided by this subchapter for imposition of the tax.

SECTION 7. Amends Section 25.00212(a), Government Code, to require the comptroller, at the end of each state fiscal year to determine the amounts deposited in the judicial fund under Section 51.704, rather than 51.703, and the amounts paid to the counties under Section 25.00211. Requires the state to remit, if the total amount paid under Section 51.704 by all counties exceeds the total amount paid to counties under Section 25.00211, the excess to the counties proportionally based on the percentage of the total paid by each county.

SECTION 8. Amends Section 111.0081(b), Tax Code, to provide that this section does not apply to a determination under Section 111.022, rather than 151.506, of this code.

SECTION 9. Amends Section 111.301 (e), Tax Code, to require the application to include sufficient information for the comptroller to determine the portion of the ad valorem taxes paid to a school district by the person for the applicable tax year on the property that the person would not have been required to pay if the school district had entered into a tax abatement agreement concerning the property that included the same terms, including terms governing the portion of the property that is to be exempt from taxation under the agreement, as specified by the municipal or county tax abatement agreement on which the refund amount is to be based.

SECTION 10. Amends Sections 111.302, Tax Code, by amending Subsection (b) and (c) and adding Subsection (d), as follows:

(b) Requires the comptroller, within 90, rather than 60, days thereafter, to compute the total amount eligible for refund.

(c) Makes a conforming change.

(d) Requires that if an eligible person has entered into tax abatement agreements with the municipality and the county, and the agreements provided to the comptroller show that the agreements exempt different portions of property value, the refund amount is to be calculated based on the greater of the portions exempted.

SECTION 11. Amends Section 111.304, Tax Code, by deleting language regarding information obtained from the Texas Department of Commerce.

SECTION 12. Amends Section 151.007(a), Tax Code, redefining "sales price," and "receipts."

SECTION 13. Amends Section 151.010, Tax Code, to provide that for purposes of this chapter and unless otherwise provided for in this chapter, the sale or use of a taxable item in electronic form instead of on physical media does not alter its tax status.

SECTION 14. Amends Section 151.057, Tax Code, to provide that the following services are not taxable under this chapter: a service performed by an employee of a temporary employment service as defined in Chapter 93.001 (Temporary Employment Services), Labor Code, for an employer to supplement the employer's existing work force on a temporary basis, when the service is normally performed by the employer's own employees, the employer provides all supplies and equipment necessary, and the help is under the direct or general supervision of the employer to whom the help is furnished: and a service performed by assigned employees of a staff leasing company, either licensed under Chapter 91 (Staff Leasing Services), Labor Code, or exempt from the licensing requirements of that chapter, for a client company under a written contract that provides for shared employment responsibilities between the staff leasing company and the client company for the assigned employees, most of whom must have been previously employed by the client company.

SECTION 15. Amends Section 151.155(a), Tax Code, to make a conforming change.

SECTION 16. Amends Section 151.257(b), Tax Code, to provide that a surety's obligation under the bond is not affected by whether the surety has a record of the receipt of a copy of the comptroller's determination notice or payment demand.

SECTION 17. Amends Chapter 151H, Tax Code, by adding Section 151.3021 as follows:

Sec. 151.3021. PACKAGING SUPPLIES AND WRAPPING. Defines "laundry or dry cleaner," and "wrapping, packing, and packaging supplies." Provides that internal and external wrapping, packing, and packaging supplies are exempted from the taxes imposed by this chapter if sold to a person who is a laundry or dry cleaner for use in wrapping, packing, or packaging an item that has been pressed and dry cleaned or laundered by the person operating as a laundry or dry cleaner in the regular course of business. Defines "laundry or dry cleaner" and "wrapping, packing, and packing supplies."

SECTION 18. Amends Section 151.308(a), Tax Code, to provide that the following items are exempted from the taxes imposed by this chapter: mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183, rather than Chapter 202, Alcoholic Beverage Code.

SECTION 19. Amends Section 151.310, Tax Code, by amending Subsection (d) and adding Subsection (f), as follows:

(d) Provides that if two or more organizations jointly hold a tax-free sale or auction, each, rather than neither, organization may hold one additional tax-free sale or auction during the calendar year in which the joint sale or auction is held.

(f) Provides that a joint venture or partnership is entitled to an exemption from the tax imposed by this chapter on its purchases. Requires that to qualify, the joint venture or partnership must be an entity that is formed between a for-profit entity and a nonprofit hospital or hospital system that qualifies for an exemption under Subsection (e) and must provide community benefits, including charity care and government-sponsored indigent health care, in the manner prescribed by Chapter 311D (Voluntary Workforce Training for Certain Students), Health and Safety Code. Provides that the exemption is limited to the percentage that the nonprofit hospital or hospital system owns in the joint venture or partnership.

SECTION 20. Amends Section 151.313, Tax Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Deletes language requiring a drug or medicine to be labeled with a national drug code issued by the federal Food and Drug Administration to be exempt from this chapter's tax provisions.

(c) Provides that in this section a product is a drug or medicine if the product is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, illness, injury or pain, is applied to the human body or is a product that humans ingest or inhale, is not an appliance or device and is not food, or the product is labeled or required to be labeled with a "drug facts" panel pursuant to the regulations of the federal Food and Drug Administration.

(d) Provides that a product is a dietary supplement if the product contains one or more vitamins, minerals, herbs, amino acids, or substances that are intended to increase caloric intake, is not represented as food or the sole item of a meal or the diet and is labeled "dietary supplement" or "supplement," or the product is labeled or required to be labeled with a "supplement facts" panel pursuant to the regulations of the federal Food and Drug Administration.

SECTION 21. Amends Section 151.317(a), Tax Code, to provide that subject to Subsection (d), gas and electricity are exempted from the taxes imposed by this chapter when sold for use in powering equipment exempt under Sections 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption, or for use in timber operations, including pumping for irrigation of timber land.

SECTION 22. Amends Sections 151.318(a) and (t) Tax Code, as follows:

(a) Provides that the following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer: tangible personal property used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a quality control process for the purpose of testing tangible personal property that is being manufactured, processed, or fabricated for ultimate sale.

(t), Provides that in addition to the other items exempted under this section, pre-press machinery, equipment, and supplies, including photographic props, that are necessary and essential to and used in connection with the printing process are exempted from the tax imposed by this chapter if they are purchased by a person engaged in certain activities.

SECTION 23. Amends Chapter 151H, Tax Code, by adding Section 151.3181, as follows:

Sec. 151.2181. DIVERGENT USE OF PROPERTY USED IN MANUFACTURING. (a) Defines "divergent use" and "property."

(b) Provides that divergent use of property exempted under Section 151.318 will not result in sales and use tax being due on the property if the divergent use occurs after the fourth anniversary of the date the property is purchased.

(c) Provides that, except as provided by Subsection (d), divergent use of property exempted under Section 151.318 that occurs during any month before the fourth anniversary of the date the property is purchased results in sales and use tax being due for that month. Provides that the amount of the sales and use tax due for a month is equal to 1/48 of the purchase price of the property multiplied by the sales and use tax rate applicable at the time of the purchase.

(d) Provides that divergent use of property exempted under Section 151.318 that occurs during a month before the fourth anniversary of the date the property is

purchased does not result in sales and use tax being due for that month if the percentage of divergent use during that month does not exceed five percent of the total use of the property that month.

(e) Provides that the amount of the divergent use during a month is the total time the property operates for a divergent use during the month, measured in hours, or the total output of the property during divergent use during the month, measured in a manner applicable to that property.

(f) Provides that the total use of property is the total time the property operates during a month, measured in hours, or the total output of the property during a month, measured in a manner applicable to that property.

(g) Provides that the percentage of divergent use for a month is determined by certain factors.

SECTION 24. Amends Section 151.3185, Tax Code, by adding Subsections (e) and (f), as follows:

(e) Provides that the sale of a motion picture, video, or audio master by the producer of the master is exempt from the taxes imposed by this chapter.

(f) Provides that tangible personal property that is sold to an entity described in 47 C.F.R. Sec. 73.624(b) (Digital Television broadcast stations) is exempt from the taxes imposed by this chapter if the property is necessary for the entity to comply with 47 C.F.R. Sec. 73.682(d) (TV transmission standards).

SECTION 25. Amends Section 151.319(b), Tax Code, to provide that a transaction involving a sale of a newspaper that has been produced, fabricated, or printed to the special order of a customer is exempted from the taxes imposed by this chapter if, the customer would be entitled to the exemption provided by Section 151.318(t).

SECTION 26. Amends Section 152.002, Tax Code, by adding subsection (e), to provide that a person who is a motor vehicle owner who is in the business of renting motor vehicles and who holds a permit may deduct the fair market value of a replaced motor vehicle that is titled to another person if either person holds a beneficial ownership interest in the other person of at least 80 percent, or acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and the replaced motor vehicle is offered for sale.

SECTION 27. Amends Section 152.041, Tax Code, by amending Subsections (c) and (d) and adding Subsection (f), as follows:

(c) Provides that except as provided by Section 152.047 and Subsection (f) of this section, the tax imposed by Section 152.021 is due on the 20th working day after the date that the motor vehicle is delivered to the purchaser.

(d) Provides that except as provided by Subsection (f) of this section, the tax imposed by Section 152.022 is due on the 20th working day after the date that the motor vehicle is brought into this state.

(f) Provides that the tax imposed by Section 152.021 and 152.022 of this code on a motor vehicle designed for commercial use is due on the 20th working day after the day it is equipped with a body or other equipment that enables it to be eligible to be registered under the Transportation Code.

SECTION 28. Amends Section 152.047(a), Tax Code, to require the seller of a motor vehicle,

except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, 151.423, 151.424, and 151.425, rather than Chapter 151.

SECTION 29. Amends Section 152.091, Tax Code, by adding Subsection (d), to provide that for purposes of this section, a machine is used "primarily for timber operations" if the machine is a self-propelled motor vehicle that is specially adapted to perform a specialized function in the production of timber, including land preparation, planting, maintenance, and gathering of trees commonly grown for commercial timber. Provides that a term does not include a self-propelled motor vehicle used to transport timber or timber products.

SECTION 30. Amends Section 153.001(25), Tax Code, to redefine "supplier."

SECTION 31. Amends Section 153.018(i), Tax Code, to require each terminal or bulk plant to post a notice in a conspicuous location proximate to the point of receipt of shipping papers that describes the duties of importers and exporters under this section.

SECTION 32. Amends Section 153.115(c), Tax Code, to provide that a permitted interstate trucker is entitled to deduct one-half of one percent of the taxable gallons of gasoline on timely payment of the taxes to the state for the expense of recordkeeping, reporting, and remitting the tax.

SECTION 33. Amends Section 153.117(a), Tax Code, requiring a distributor to keep an itemized statement showing by load the number of gallons of all gasoline imported during the preceding calendar month by state or country of origin, rather than destination state or country.

SECTION 34. Amends Section 153.119(a), Tax Code, to make a conforming change.

SECTION 35. Amends Section 153.122, Tax Code, as follows:

Sec. 153.122. New heading: GASOLINE TAX REFUND PAYMENT. Deletes language regarding a filing fee.

SECTION 36. Amends Section 153.205, Tax Code, as follows:

(a) Authorizes the first sale or use of diesel fuel in this state is taxable, except that sales of dyed diesel fuel, or of undyed diesel fuel if the fuel will be used for an agricultural nonhighway purpose, rather than an agricultural purpose to be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement, including an end user number or agricultural exemption number issued by the comptroller. Requires a person who wants to use a signed statement to purchase dyed diesel fuel to apply to the comptroller for an end user number to be used in conjunction with a signed statement. Requires a person who wants to use a signed statement to purchase dyed or undyed diesel fuel for an agricultural nonhighway purpose to apply to the comptroller for an agricultural exemption number to be used in conjunction with a signed statement. Prohibits a supplier from making a tax-free sale of any diesel fuel to a purchaser using a signed statement unless the purchaser has an end user number or agricultural exemption number issued by the comptroller under this section. Deletes language regarding operation of motor vehicles on the highway, consumption of diesel fuel and supply tanks.

(b) Authorizes the sale of dyed diesel fuel to be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement, including an end user number issued by the comptroller, that stipulates that none of the diesel fuel purchased on the signed statement is of a

type that may legally be used on the public highway; all of the dyed diesel fuel purchased on the signed statement will be consumed by the purchaser and will not be resold; and none of the dyed diesel fuel purchased on the signed statement will be delivered or permitted to be delivered into the fuel supply tank of motor vehicles operated on the public highways in this state.

(c) Authorizes the sale of dyed or undyed diesel fuel to be made without collecting the tax if the purchaser furnishes to a permitted supplier a signed statement, including an agricultural exemption number issued by the comptroller, that stipulates that all of the dyed and undyed diesel fuel purchased on this signed statement will be used exclusively in agricultural nonhighway equipment; all of the dyed and undyed diesel fuel purchased on this signed statement will be consumed by the purchaser and will not be resold and none of the dyed or undyed diesel fuel purchased on this signed statement will be delivered or permitted to be delivered into the fuel tanks of motor vehicles operated on the public highways in this state. Deletes language regarding a signed statement, revocation of statement, notification of the comptroller and taxable sales of diesel fuel.

(d) Prohibits a person from making a tax-free purchase of any diesel fuel under this section using a signed statement for the purchase of more than 3,000 gallons of dyed or undyed diesel fuel in a single transaction or delivery or in a calendar month in which the person has previously purchased more than 10,000 gallons of dyed or undyed diesel fuel from all sources, and provides that the number of gallons purchased in excess of the 3,000 gallon in a single transaction or delivery or the number of gallons purchased in excess of 10,000 gallons in a calendar month constitutes a taxable purchase. Authorizes the purchaser paying the tax on dyed or undyed diesel fuel in excess of the limitations provided in this subsection to claim a refund of the tax paid on any dyed or undyed diesel fuel used for nonhighway purposes under Section 153.222. Deletes language regarding a signed statement and rebuttable presumption.

(e) Provides that any gallons purchased in excess of the limitations prescribed by Subsection (d) constitute a taxable purchase. Prohibits a supplier from making a tax-free sale of any diesel fuel under this section to a purchaser using a signed statement for the sale of more than 3,000 gallons of dyed or undyed diesel fuel in a single transaction or delivery, or in a calendar month in which the supplier has previously sold more than 10,000 gallons of dyed or undyed diesel fuel to the purchaser, and the number of gallons sold in excess of the 3,000 gallon in a single transaction or delivery or the number of gallons sold in excess of 10,000 gallons in a calendar month constitutes a taxable sale. Authorizes the purchaser paying the tax on dyed or undyed diesel fuel in excess if the limits provided in this subsection to claim a refund of the tax paid on any dyed or undyed diesel fuel used for nonhighway purposes under Section 153.222. Deletes language regarding a signed statement.

(f) Provides that the signed statement and end user number or agricultural exemption number from the purchaser as provided by this section relieves the permitted supplier from the burden of proof that the sale of dyed diesel fuel or undyed diesel fuel for an agricultural nonhighway purpose was not taxable to the purchaser and remains in effect unless the statement is revoked in writing by the purchaser or supplier, or the comptroller notifies the supplier in writing that the purchaser may no longer make tax-free purchases. Deletes language regarding a signed statement.

(g) Provides that any gallons sold in excess of the limitations prescribed by Subsection (f) constitute a taxable sale. Provides that a taxable use of any part of the dyed or undyed diesel fuel purchased under a signed statement, in addition to any criminal penalty, forfeit the right of the person to purchase dyed or undyed diesel fuel tax-free for a period of one year from the date of the offense, and any tax, penalty, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory statement by the purchaser, if assessed to the supplier, is debt of the purchaser to the supplier until paid, and is recoverable at law in the

same manner as the purchase price of the fuel. Authorizes the person to, however, claim a refund of the tax paid on any undyed diesel fuel used for nonhighway purposes under section 153.222. Deletes language regarding the comptroller's regulations and rules, sale of dyed diesel fuel, and a signed statement.

(i) Created from the text of existing Subsection (e).

SECTION 37. Amends Section 153.206(c), Tax Code, as follows:

(c) Requires that a dyed diesel fuel bonded user, agricultural bonded user, or other user, except a diesel tax prepaid user, report and pay to the state the tax at the rate imposed on each gallon of diesel fuel delivered by him into the fuel supply tanks of a motor vehicle, unless the tax has been paid to a permitted supplier or a dealer or, as a diesel tax prepaid user, the tax has been prepaid directly to the comptroller.

(i) Provide that a dyed diesel fuel bonded user, an agricultural bonded user, or a permitted interstate trucker is entitled to deduct one-half of one percent of the taxable gallons of diesel fuel on timely payment, rather than on payment, of the taxes to this state for the expense of recordkeeping, reporting, and remitting the tax.

SECTION 38. Amends the heading of Section 153.217, Tax Code, to read as follows:

Sec. 153.217. LIST OF SUPPLIERS, DYED DIESEL FUEL BONDED USERS, AGRICULTURAL BONDED USERS, AVIATION FUEL DEALERS, AND DIESEL FUEL JOBBERS.

SECTION 39. Amends Section 153.219(j), Tax Code, to require a supplier to keep an itemized statement showing by load the number of gallons of all diesel fuel imported during the preceding calendar month by origin, rather than destination, state or country.

SECTION 40. Amends Sections 153.221 (a) and (c), Tax Code, as follows:

(a) Makes conforming changes.

(c) Deletes language requiring a common contract carrier to file a certain report.

SECTION 41. Amends Section 153.222(a), Tax Code, deleting language regarding a filing fee.

SECTION 42. Amends Section 153.225, Tax Code, as follows:

Sec. 153.225. New heading: DIESEL FUEL TAX REFUND PAYMENTS. Deletes language regarding a filing fee.

SECTION 43. Amends Sections 153.308 (c) and (d), Tax Code, to make conforming changes.

SECTION 44. Amends Section 153.311(c), Tax Code, to delete language regarding a filing fee and to make a nonsubstantive change.

SECTION 45. Amends Section 154.001(13), Tax Code, to define "permit holder."

SECTION 46. Amends Section 154.101(a), (b) and (h), Tax Code, to make a conforming change.

SECTION 47. Amends Section 154.102(a), Tax Code, to make a conforming change.

SECTION 48. Amends Section 154.110(a), Tax Code, to make a conforming change.

SECTION 49. Amends Section 154.501(a), Tax Code, to make a conforming change.

SECTION 50. Amends Section 155.001(11), Tax Code, to make conforming change.

SECTION 51. Amends Sections 155.041(a), (b) and (h), Tax Code, to make conforming changes.

SECTION 52. Amends Section 155.048(a), Tax Code, to make a conforming change.

SECTION 53. Amends Section 155.111, Tax Code, by adding Subsection (d), to require the distributor, if more than 50 percent of all untaxed tobacco products received by the distributor in this state are actually sold outside of this state, to include in the report only tobacco products that are sold in this state.

SECTION 54. Amends Section 155.201(a), Tax Code, to make a conforming change.

SECTION 55. Amends Section 171.1032, Tax Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that except for the gross receipts of a corporation that are subject to Section 171.1061, in apportioning taxable earned surplus, the gross receipts of a corporation from its business done in this state is the sum of the corporation's receipts from the corporation's share of the gross receipts of each partnership and joint venture to the extent provided by Subsection (c).

(c) Requires a corporation to include its gross receipts computed under Subsection (a) the corporation's share of the gross receipts of each partnership and joint venture of which the corporation is a part apportioned to this state as though the corporation directly earned the receipts, including receipts from business done with the corporation.

SECTION 56. Amends Section 171.1051, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides that except for the gross receipts of a corporation that are subject to the provisions of Section 171.1061, in apportioning taxable earned surplus, the gross receipts of a corporation from its entire business is the sum of the corporation's receipts from the corporation's share of the gross receipts of each partnership and joint venture.

(d) Requires a corporation to include in its gross receipts computed under Subsection (a) the corporation's share of the gross receipts of each partnership and joint venture of which the corporation is a part.

SECTION 57. Amends Section 171.106, Tax Code, by adding Subsection (h), to require that a banking corporation exclude from the numerator of its apportionment factor interest earned on federal funds and interest earned on securities sold under agreement to repurchase held in Texas in a correspondent bank. Defines "correspondent bank."

SECTION 58. Amends Section 171.109, Tax Code, by adding Subsection (n), to require a corporation to use the equity method of accounting when reporting an investment in a partnership or joint venture.

SECTION 59. Amends Section 171.1121, Tax Code, by adding Subsection (e), to require that a corporation's share of a partnership's gross receipts that is included in the corporation's its federal taxable income be used in computing the corporation's gross receipts under this section. Provides that unless otherwise provided by this chapter, a corporation may not deduct costs incurred from the

corporation's share of a partnership's gross receipts. Requires the gross receipts to be apportioned as though the corporation directly earned them.

SECTION 60. Amends Section 171.260(b), Tax Code, to change references to a savings and loan corporation to and savings and loan association.

SECTION 61. Amends Section 171.501(d), Tax Code, to provide that the amount of a refund under this section is the lesser of \$5,000 or 25 percent of the amount of franchise tax due, rather than taxes paid, for any one privilege period before any other applicable credits.

SECTION 62. Amends Section 171.655, Tax Code, to prohibit the credit claimed for each privilege period from exceeding 50 percent of the amount of franchise tax, rather than net franchise tax, due for the privilege period before, rather than after, any other applicable tax credits.

SECTION 63. Amends Section 171.685, Tax Code, to make conforming changes.

SECTION 64. Amends Section 171.705(b), Tax Code, to prohibit a corporation from claiming a credit in an amount that exceeds 90 percent of the amount of tax due for the report before any other applicable credits.

SECTION 65. Amends Section 171.753, Tax Code, to authorize a corporation to establish a credit equal to 5, rather than 25, percent of the total wages and salaries paid by the corporation for qualifying jobs during the period upon which the tax is based.

SECTION 66. Amends Section 171.754, Tax Code, to require the credit to be established on five consecutive reports beginning with the report based upon the period during which the qualifying jobs were created.

SECTION 67. Amends Section 171.756, Tax Code, to provide that a carryforward is considered the remaining portion of a credit, rather than an installment, that cannot be claimed in the current year because of the tax limitation under Section 171.755. Provides that a credit carryforward from a previous report is considered to be utilized before the current year credit, rather than installment. Deletes language regarding an installment.

SECTION 68. Amends Section 171.831, Tax Code, to redefine "school-age child care."

SECTION 69. Amends Section 171.834(c), Tax Code, to make a conforming change.

SECTION 70. Amends Chapter 171, Tax Code, by adding Subchapter S, as follows:

SUBCHAPTER S. CREDITS LIMITATION

Sec. 171.851. LIMITATION. Provides that the total credits claimed under this chapter for a report, including the amount of any carryforward credits, may not exceed the amount of franchise tax due for the report.

SECTION 71. Amends Section 211.055, Tax Code, to prohibit the amount of taxes imposed by this chapter from exceeding the amount of the tax imposed under Section 2001 (Imposition and rate of tax), Internal Revenue Code, reduced by the unified credit provided under Section 2010 (Unified credit against estate tax), Internal Revenue Code. Deletes language regarding Chapters 11 and 13, Internal Revenue Code.

SECTION 72. Amends Chapter 321D, Tax Code, by adding Section 321.312, as follows:

Sec. 321.312. RETENTION OF CERTAIN MUNICIPAL SALES TAXES. Provides that

a municipality that holds a sales and use tax permit issued by the comptroller and that imposes a municipal sales and use tax may retain the portion of the municipal sales and use taxes that it collects that constitute its own tax. Requires the municipality to remit to the comptroller all other applicable local sales and use taxes and the state sales and use tax.

SECTION 73. Amends Chapter 322D, Tax Code, by adding Section 322.306, as follows:

Sec. 322.306. RETENTION OF CERTAIN SPECIAL PURPOSE DISTRICT SALES TAXES. Authorizes a special purpose district that holds a sales and use tax permit issued by the comptroller and that imposes a special purpose district sales and use tax to retain the portion of the special purpose district sales taxes that it collects that constitute its own tax. Requires the special purpose district to remit to the comptroller all other applicable local sales and use taxes and the state sales and use tax.

SECTION 74. Amends Chapter 323D, Tax Code, by adding Section 323.312, as follows:

Sec. 323.312. RETENTION OF CERTAIN COUNTY SALES TAXES. Authorizes a county that holds a sales and use tax permit issued by the comptroller and that imposes a county sales and use tax to retain the portion of the county sales and use taxes that relate to its own tax. Requires the county to remit to the comptroller all other applicable local sales and use taxes and the state sales and use tax.

SECTION 75. Amends Section 311.045(a), Health and Safety Code, to delete language regarding the comptroller's office.

SECTION 76. Amends Section 74.402, Property Code, to require that before the 21st day preceding the day on which a public sale is held under Section 74.401, the comptroller publish notice of the sale in a newspaper of general circulation in Travis County or in the county where the sale is to be held. Authorizes the comptroller, if the public sale is to be held on the Internet or by an online auction, to post notice on the comptroller's own website before the seventh day preceding the date on which the sale or auction is held.

SECTION 77. Amends Section 451.616(a), Transportation Code, to require a unit of election that has withdrawn from an authority, rather than the comptroller, to remit, rather than withhold, to the authority one-half of the difference between the cost of providing services to persons with disabilities in the unit of election and the fares charged during the period in which the sales and use tax was collected. Deletes language regarding amount of sales and use tax.

SECTION 78. Amends Section 11.011(e), Texas Racing Act (Article 179e, V.T.C.S.), to provide that the racetrack where the wager is made is responsible for reporting and remitting the state's share of the pari-mutual pool. Deletes language regarding wagering pools.

SECTION 79. Amends Section 1, Article 6550c-1, V.T.C.S., to define "district property."

SECTION 80. Amends Section 9, Article 6550c-1, V.T.C.S., as follows: (a) Requires that there be imposed a sales and use tax on items sold on district property. Requires that the sales and use tax be imposed, rather than collected, at the rate of the highest combination of local sales and use taxes imposed at the time of its creation in any local governmental jurisdiction which is a member of the district. Requires the comptroller to remit to a district the local sales and use tax collected on the district's property. Provides that all other local sales and use taxes which would otherwise be imposed on district property are pre-empted by the imposition of this tax.

(b) Requires the comptroller to administer, collect and enforce any tax imposed under this chapter. Provides that the Municipal Sales and Use Tax Act (Chapter 321, Tax Code) governs the computation, administration, governance and use of the tax except as inconsistent

with this act.

(c) Requires the district to notify the comptroller in writing by United States registered or certified mail of the district's creation and of its intent to impose the sales and use tax imposed under this act. Requires the district to provide the comptroller with all information required to implement the tax including certain information. an adequate map showing the property boundaries of the district. Requires such information to include, but not to be limited to, a certified copy of the district board's resolution adopting the tax and certified copies of the resolutions of the governing bodies of the municipalities creating the district and of the county commissioners courts in the counties in which these municipalities are located.

(d) Requires the comptroller, not later than the 30th day after the date the comptroller receives the notice, map and other information, to inform the district whether the comptroller is prepared to administer the tax.

(e) Requires the district, at the same time the district notifies the comptroller under Subsection (c), to notify each affected local governmental jurisdiction of the district's creation and provide each jurisdiction with an adequate map showing the property boundaries of the district.

(f) Requires the district, not later than the 30th day after the date the district acquires additional territory, to notify the comptroller and each affected local governmental jurisdiction of the acquisition. Requires the district to include with each notification an adequate map showing the new property boundaries of the district and the date the additional territory was acquired. Requires the comptroller, not later than the 30th day after the comptroller receives the notice under this subsection, to inform the district whether the comptroller is prepared to administer the tax in the additional territory.

(g) Provides that a tax imposed under this Act the repeal of a tax abolished under this Act takes effect on the first day of the first complete quarter that occurs after the expiration of the first complete calendar quarter that occurs after the date the comptroller receives a notice of the action as required by this section.

SECTION 81. Repealer: Sections 151.319(d) and (e), Tax Code (Newspapers and Property Used in Newspaper Publication); Sections 171.757(c) and (d), Tax Code (Certification of Eligibility); and Section 201.052(b), Tax Code (Rate of Tax).

SECTION 82. Provides that each change in law made by the following provisions by this Act 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:

- (1) Section 111.0081(b), Tax Code;
- (2) Section 151.007(a), Tax Code;
- (3) Section 151.010, Tax Code;
- (4) Section 151.057, Tax Code;
- (5) Section 151.257(b), Tax Code;
- (6) Section 151.308(a), Tax Code;
- (7) Section 151.310, Tax Code;
- (8) Section 151.313, Tax Code;
- (9) Section 151.317(a), Tax Code;
- (10) Sections 151.318(a) and (t), Tax Code;
- (11) Section 151.3185(e), Tax Code;
- (12) Section 319(b), Tax Code;
- (13) Section 152.047(a), Tax Code;
- (14) Section 152.091(d), Tax Code;
- (15) Section 153.001(25), Tax Code;

- (16) Section 153.018(i), Tax Code;
- (17) Section 153.117(a), Tax Code;
- (18) Section 153.205, Tax Code;
- (19) Section 153.206(c), Tax Code;
- (20) Section 153.219(j), Tax Code;
- (21) Sections 153.221(a) and (c), Tax Code;
- (22) Section 154.001(13), Tax Code;
- (23) Sections 154.101(a), (b), and (h), Tax Code;
- (24) Section 154.102(a), Tax Code;
- (25) Section 154.110(a), Tax Code;
- (26) Section 154.501(a), Tax Code;
- (27) Section 155.001(11), Tax Code,
- (28) Sections 155.041(a), (b), and (h), Tax Code;
- (29) Section 155.048(a), Tax Code;
- (30) Section 155.201(a), Tax Code
- (31) Section 171.1032(a), Tax Code;
- (32) Section 171.1051(a), Tax Code;
- (33) Section 171.1121(e), Tax Code;
- (34) Section 171.260, Tax Code;
- (35) Section 171.831, Tax Code; and
- (36) Chapter 171S Tax Code.

SECTION 83. Makes application of SECTIONS 2 and 3 of this bill prospective.

SECTION 84. Authorizes the comptroller of public accounts to adopt rules and take other actions before October 1, 2001, as the comptroller deems necessary or advisable to prepare for the taking effect of this Act.

SECTION 85. EFFECTIVE DATES.

- (a) Effective date: September 1, 2001, with exceptions.
- (b) Provides that Sections 12, 13, 14, 15, 17 through 26, 29 through 54, 72 through 74, 78, 81(1), and 81(3) of this Act take effect October 1, 2001.
- (c) Provides that Sections 55 through 70, and 81(2) of this Act take effect on January 1, 2002, and apply to a report originally due on or after that date.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 1125 by amending proposed technical changes to the Tax Code.