

## **BILL ANALYSIS**

Senate Research Center  
82R6149 MXM-D

S.B. 1172  
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Finance  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Too often businesses face a temptation to use sales tax receipts, which are comingled with normal business receipts via regular merchant processing, for purposes other than sales tax compliance. Unless a permit holder is very diligent, the permit holder may not have enough ready cash to make a required sales tax payment to the Office of the Comptroller of Public Accounts (comptroller). This can result in a permit holder becoming delinquent with sales tax remittance obligations to the state.

New technology has been developed making it safe, easy, and simple for sales tax permit holders to collect, segregate, and remit sales tax dollars to the comptroller without mingling those funds with other receipts of the business. This provides a permit holder with the assurance that he or she will have the funds available to satisfy monthly sales tax obligations in a fast, safe, and effective manner.

The purpose of the bill is to establish a structure by which the comptroller's office can verify a split funding sales tax remittance process and ensure that it is compatible with the comptroller's current electronic filing and remittance systems and that Texas retailers could utilize that certified system to maintain compliance with sales tax remittance obligations. Finally, the purpose of the bill is to make it easier for retailers to maintain compliance with Texas sales tax remittance obligations and for the state to have access to those sales tax receipts more quickly.

As proposed, S.B. 1172 amends current law relating to automated sales and use tax remittances by retailers.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 151.106(c), Tax Code, to require a retailer required to register under this section to comply with Subchapter G (Seller's and Retailer's Security), and notify the comptroller of public accounts (comptroller) if the retailer enrolls in an automated sales tax remittance system under Section 151.434, rather than of this chapter.

SECTION 2. Amends Section 151.401(a), Tax Code, to provide that the taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection (b), prepays the tax on a quarterly basis as permitted by Section 151.424 (Discount for Prepayments), or pays its taxes using an automated sales tax remittance system under Section 151.434, on a more frequent basis than monthly or quarterly as determined by the comptroller, rather than qualifies as a quarterly filer under Subsection (b) of this section or unless the taxpayer prepays the tax on a quarterly basis as permitted by Section 151.424 of this code.

SECTION 3. Amends Subchapter I, Chapter 151, Tax Code, as follows:

Sec. 151.434. AUTOMATED SALES TAX REMITTANCE SYSTEM. (a) Requires the comptroller to establish guidelines by which a person is certified to operate an automated sales tax remittance system for retailers to remit taxes due under this chapter.

(b) Requires the automated sales tax remittance system operated by a person, to receive certification from the comptroller, to comply with existing comptroller electronic filing system requirements, and provide a split funding process by which a portion of the retailer's daily credit card are deposited in a separate bank account established by the retailer receipts for the purpose of satisfying all or part of the retailer's tax payment liability under this chapter.

(c) Prohibits the person operating the system from requiring the retailer to pay an extra fee to a credit card processing company or bank beyond normal account fees for the maintenance of the separate bank account.

(d) Requires the comptroller to notify persons who hold a sales tax permit under this chapter of all persons who are certified under this section. Requires the comptroller to include the notification in any correspondence to the permit holder, on the comptroller's website, and on the form prescribed by the comptroller under Section 151.202 (Application for Permit).

(e) Authorizes the comptroller, if the comptroller determines that it is necessary to ensure compliance with this chapter, to require a retailer to enroll with a person certified under this section.

SECTION 4. Provides that the comptroller is not required to modify its correspondence, website, or forms solely to comply with Section 151.434(d), Tax Code, as added by this Act. Requires the comptroller, when the comptroller for other reasons modifies its correspondence, website, or forms, to comply with Section 151.434(d), Tax Code, as added by this Act, for the correspondence, website, or forms.

SECTION 5. Effective date: September 1, 2011.