

BILL ANALYSIS

Senate Research Center

H.B. 1871
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Finance
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local governments rely on the comptroller of public accounts of the state of Texas (comptroller) to collect and administer the local sales tax. As technology has changed, local governments have become more sophisticated in the way they deal with information. H.B. 1871 seeks to allow the comptroller to share more information with local governments concerning local sales tax collections, administration, and compliance.

The bill specifies that the requirement for the report to show whether or not the taxpayer is delinquent in the payment of sales and use taxes applies to taxes due to the municipality as well as taxes due to the state. The bill clarifies that the steps taken by the comptroller that are required to be described in the report are the steps taken to collect or allocate the delinquent taxes due to the municipality.

H.B. 1871 changes the condition under which a municipality must report to the comptroller the name and address of a certain person doing business in the municipality from the municipality determining that the person is not included in a comptroller's report to the municipality determining the person has not fully collected or reported municipal sales and use taxes due to the municipality.

The bill extends from 90 to 120 the number of days within which the comptroller must send the municipality a certain response after receiving the report. The bill includes in the optional response consisting of a statement that the person is obligated for the municipal tax and the tax is delinquent a description of the action the comptroller is taking to collect and allocate the delinquent tax and the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person.

The bill includes in the response consisting of a certification that the person is obligated for the municipal tax the periods for which the person is obligated, the amount of the tax due, and a statement as to whether the tax due has been credited to the municipality's account, with the latter two elements replacing the certification that the full amount of the tax due has been credited to the municipality's account.

H.B. 1871 authorizes the comptroller to set and collect from the municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information.

The bill establishes that a municipality providing a report to the comptroller regarding a person doing business in the municipality who has not fully collected or reported municipal sales and use tax preserves the right to receive from the comptroller the tax due to the municipality from the person that is the subject of the report for the four years preceding the date the comptroller receives the report from the municipality and for each subsequent reporting period until the comptroller has fulfilled the comptroller's duties in responding to the municipality's report.

H.B. 1871 amends current law relating to the duty of the comptroller to report sales and use tax information to certain taxing entities.

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 321.302, Tax Code, by amending Subsections (b) and (c) and adding Subsections (e), (f), and (g), as follows:

(b) Requires the comptroller of public accounts for the State of Texas (comptroller), if a municipality requests an additional report, to make an additional quarterly report to the municipality including the name, address, and account number, if any, of, and the amount of tax received and the amount due to the municipality from, each person doing business in the municipality who has failed to pay the full amount of tax due under this chapter to the municipality or under Chapter 151 (Limited Sales, Excise, and Use Tax). Requires that the additional report also include statements:

- (1) showing whether or not there has been a partial tax payment by the delinquent taxpayer;
- (2) showing whether or not the taxpayer is delinquent in the payment of sales and use taxes due to the municipality or to the state; and
- (3) describing the steps taken by the comptroller to collect or allocate the delinquent taxes due to the municipality.

(c) Requires the municipality, if a municipality determines that a person doing business in the municipality has not fully collected or reported taxes due to the municipality under this chapter, rather than determines that a person doing business in the municipality is not included in a comptroller's report, to report to the comptroller the name and address of the person and requires the municipality to include with the report a detailed statement of the facts and legal authorities that support the municipality's determination that the taxes have not been fully collected or reported. Requires the comptroller, within 120 days, rather than 90 days, after receiving the report from a municipality, to send to the municipality:

- (1) Makes no change to this subdivision;
- (2) a statement that the person is obligated for the municipal tax and the tax is delinquent that includes:
 - (A) a description of the action the comptroller is taking to collect and allocate the delinquent tax; and
 - (B) the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person; or
- (3) a certification that the person is obligated for the municipal tax, the periods for which the person is obligated, the amount of the tax due, and a statement as to whether the tax due has been credited to the municipality's account, rather than a certification that a certification that the person is obligated for the municipal tax and that the full amount of the tax due has been credited to the municipality's account.

(e) Authorizes the comptroller to set and collect from the municipality or other local governmental entity reasonable fees to cover the expense of compiling and providing information.

(f) Provides that a municipality providing a report to the comptroller under Subsection (c) preserves the right to receive from the comptroller the tax reported to the comptroller and found to be due to the municipality from the person that is the subject of the report for the four years preceding the date the comptroller receives the report from the municipality and for each subsequent reporting period until the comptroller has fulfilled the comptroller's duties under that subsection.

(g) Provides that information received by a municipality under this section is confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code. Authorizes the information to be used by the municipality only for the purpose of economic forecasting or for internal auditing of a tax paid to the municipality under this chapter.

SECTION 2. Effective date: September 1, 2015.