

BILL ANALYSIS

Senate Research Center

C.S.S.B. 862
By: Armbrister
Finance
3-25-97
Committee Report (Substituted)

DIGEST

Currently, there are technical errors and ambiguous parts of the Tax Code. The comptroller has identified a number of technical corrections and changes to various parts of the Tax Code that would clarify, correct, or conform existing tax law provisions. This bill corrects language of the Tax Code on general collection and enforcement procedure and the application and administration of certain taxes.

PURPOSE

As proposed, S.B. 862 corrects language of the Tax Code on general collection and enforcement procedure and the application and administration of certain taxes.

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 101.003(b), Tax Code, to reenact the definition of "taxpayer."

SECTION 2. Amends Section 111.0047(a), Tax Code, to delete text providing that a person is to comply with any provision of Chapter 466, Government Code. Makes a conforming change.

SECTION 3. Amends Section 111.0048(a), Tax Code, to delete text providing that a person is to comply with any provision of Chapter 466, Government Code. Makes a conforming change.

SECTION 4. Amends Section 111.006(a), Tax Code, to delete text providing that Subsection (a) is excepted as provided by Subsection (b). Provides that certain matters are confidential except as permitted by Subsection (e). Makes nonsubstantive changes.

SECTION 5. Amends Section 111.018, Tax Code, by adding Subsection (c), to provide conditions under which publication in a newspaper for the sale of seized items is not needed. Sets forth notice requirements.

SECTION 6. Amends Section 111.061(b), Tax Code, to require an additional penalty of 50 percent of the tax due to be imposed if certain provisions are met.

SECTION 7. Amends Section 111.206(f), Tax Code, to define "administrative proceeding" and make nonsubstantive changes.

SECTION 8. Amends Section 112.060, Tax Code, by amending Subsections (a),(b), and (d) and adding Subsection (e), to require the comptroller, rather than the treasurer, to credit certain amounts due to the state. Requires a refund warrant to be written and signed by the comptroller and not countersigned by the treasurer. Requires the comptroller to issue each tax refund warrant, rather than the treasurer returning each tax refund warrant to the comptroller. Prohibits the comptroller from refunding a certain amount of a tax.

SECTION 9. Amends Section 113.006(b), Tax Code, to provide that one tax lien notice is sufficient

to cover all taxes of the same nature, including penalty and interest computed by reference to the amount of tax, that may have accrued before or after the filing of the notice.

SECTION 10. Amends Section 151.0035, Tax Code, to redefine "data processing service."

SECTION 11. Amends Section 151.0047(b), Tax Code, to define "new product."

SECTION 12. Amends Section 151.0048(c), Tax Code, to redefine "contractor."

SECTION 13. Amends Section 151.007(c), Tax Code, to redefine "sales price" and "receipts."

SECTION 14. Amends Section 151.057, Tax Code, to provide that certain services are not taxable. Makes a conforming change.

SECTION 15. Amends Section 151.154, Tax Code, by adding Subsection (f), to provide that certain purchasers are liable for sales tax on the purchase price if the purchaser uses the item as a part of the excludable consideration on the purchase of another taxable item.

SECTION 16. Amends Section 151.310(c), Tax Code, to authorize certain organizations to hold auctions under this subsection. Provides that the sale of a taxable item by a qualified organization with a sale price of \$5,000 or less is exempted from paying sales tax. Provides that certain items stored are exempted by a use tax imposed under Subchapter D of this chapter if the item is exempted under this subsection from the taxes imposed by Subchapter C.

SECTION 17. Amends Section 151.318, Tax Code, is amended by adding Subsection (r), to set forth the beginning of manufacturing of computer software.

SECTION 18. Amends Sections 151.321(a) and (c), Tax Code, to provide that a taxable item sold by a qualified student organization and for which the sale price is \$5,000 or less is exempted from Chapter C taxes. Deletes a provision proving that certification is valid for two years after the date that the comptroller receives it. Makes nonsubstantive changes.

SECTION 19. Amends Section 151.330(f), Tax Code, to provide that certain services are exempt to the extent they are for use outside the state and made taxable on or after September 1, 1987.

SECTION 20. Amends Section 151.353, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Provides for an exemption for court reporting services relating to the preparation of a document or other record in a civil or criminal suit by a court reporter licensed by the State of Texas Court Reporters Certification Board.

(d) Sets forth exemptions for certain court reporting services by a video photographer.

SECTION 21. Amends Section 152.001, Tax Code, to redefine "retail sale," "motor vehicle," and "seller-financed sale." Defines "lessor," "new motor vehicle," and "franchised dealer."

SECTION 22. Amends Section 152.028(a), Tax Code, to provide that a use tax is imposed for a motor vehicle purchased tax free under Section 152.092, Tax Code.

SECTION 23. Amends Section 152.0411, Tax Code, by amending Subsections (a) and (e) and adding Subsection (f), to provide that this section applies to a licensee under Chapter 503, Transportation Code, rather than Article 6686, V.T.C.S. Sets forth applicability of this section and records to be maintained under this section. Makes a conforming change.

SECTION 24. Amends Section 152.063(e), to delete a provision that certain sellers keep certain records.

SECTION 25. Amends Sections 152.0635(c), (d), and (e), Tax Code, to delete a provision requiring certain sellers to keep certain records. Makes a conforming change.

SECTION 26. Amends Section 152.066(d), Tax Code, to provide that interest begins to accrue on the day a joint statement, rather than affidavit, was executed.

SECTION 27. Amends Section 152.069(b), Tax Code, to make conforming changes.

SECTION 28. Amends Sections 153.017(b) and (g), Tax Code, to authorize an agreement to provide for determining methods for collecting motor fuel taxes and for collecting and forwarding motor fuel taxes, other than penalties due to another jurisdiction. Makes conforming changes.

SECTION 29. Amends Section 153.1195, Tax Code, as follows:

Sec. 153.1195. New heading: CREDITS FOR BAD DEBTS. Authorizes a permitted distributor to take a credit on the monthly report to be filed with the comptroller, rather than against taxes to be remitted to the comptroller or claim a refund on taxes paid to the comptroller, if certain provisions are met. Makes conforming changes.

SECTION 30. Amends Section 153.206(f), Tax Code, to require a supplier, rather than a distributor, to sell certain products.

SECTION 31. Amends Section 153.2225, Tax Code, as follows:

Sec. 153.2225. New heading: CREDITS FOR BAD DEBTS. Authorizes a permitted distributor to take a credit on the monthly report to be filed with the comptroller, rather than against taxes to be remitted to the comptroller or claim a refund on taxes paid to the comptroller, if certain provisions are met. Makes conforming changes.

SECTION 32. Amends Section 201.057(f), Tax Code, to require drilling and completion costs include current and contemporaneous costs associated with the recompletion. Requires an application to the comptroller for certification according to Subsection (a)(2)(A) to be filed, rather than may not be filed, after the date of first production or the 45th day after the date of approval.

SECTION 33. Amends Section 211.102, Tax Code, to provide an exception provided by Sections 211.103 and 211.104(b), Tax Code.

SECTION 34. Amends Section 211.104, Tax Code, to set forth requirements for any additional taxes due by a decedent's estate as a result of an Internal Revenue Service audit or federal tax court decision.

SECTION 35. Amends Chapter 211C, Tax Code, by adding Section 211.111, as follows:

Sec. 211.111. LIMITATIONS. Sets forth requirements for a limitations period.

SECTION 36. Amends Section 211.251, Tax Code, to authorize the comptroller to examine certain records of a decedent's estate or of a personal representative, transferee, or distributee of a decedent's estate at any time, without regard to the period provided by Section 111.0041, Tax Code.

SECTION 37. Amends Chapter 403B, Government Code, by adding Section 403.026, as follows:

Sec. 403.026. ELECTRONIC STORAGE AND MAINTENANCE OF RECORDS. Sets forth requirements of electronic storage and maintenance of records. Defines "essential record," "records preservation officer," and "state record."

SECTION 38. Amends Section 2155.004, Government Code, to prohibit a state agency from accepting a bid or awarding a contract to certain individuals or business entities, except under certain conditions. Sets forth required language of a bid or an award. Sets forth procedures for ineligible

contracts, false certification, or the absence of certification of an entity. Makes conforming changes.

SECTION 39. Amends Section 361.472(a), Health and Safety Code, to provide for certain actions by a person selling new or used tires.

SECTION 40. Amends Section 16A(2), Article 8817, V.T.C.S., to require an owner to obtain a registration certificate by filing an application in the form prescribed by the comptroller.

SECTION 41. Amends Article 1.28(2), Insurance Code, to prohibit a credit or offset in a taxable year from being allowed on certain expenses. Provides that this article prevails over Article 9.59.

SECTION 42. Amends Article 4.17(a), Insurance Code, to set forth the components of gross premiums.

SECTION 43. Amends Article 20A.32(b)(4), Insurance Code, to prohibit certain credits from being allowed on certain expenses.

SECTION 44. Amends Article 20A.33(d), Insurance Code, to set forth the amount of maintenance tax assessed.

SECTION 45. Repealer: Sections 111.0022 and 112.002, Tax Code (Application to other laws administered by comptroller, and Inclusion of penalty and interest, respectively).

SECTION 46. Effective date: September 1, 1997.
Effective date of Sections 10-31 of this Act: October 1, 1997.

SECTION 47. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 2.

Deletes SECTION 2.

SECTIONS 3-6.

Redesignates SECTIONS 3-6 as SECTIONS 2-5, respectively.

SECTION 6.

Amends SECTION 6, Section 111.061(b), Tax Code, to require an additional tax of 50 percent to be imposed if certain provisions are met.

SECTION 14.

Amends SECTION 14, Section 151.057, Tax Code, to provide services that are not taxable.

SECTION 21.

Amends SECTION 21, Section 152.001, Tax Code, to redefine "retail sale," "motor vehicle," and "seller-financed sale." Defines "lessor," "new motor vehicle," and "franchised dealer."

SECTION 23.

Amends SECTION 23, Section 152.0411, Tax Code, to provide that Subsection (a) is excepted as provided by this section. Provides that this section applies to a licensee under Chapter 503, Transportation Code, rather than Article 6686, V.T.C.S. Sets forth applicability of this section and records to be maintained under this section.

SECTIONS 22-28.

Redesignates SECTIONS 22-28 as SECTIONS 25-31, respectively.

SECTIONS 29-36.

Redesignates SECTIONS 29-36 as SECTIONS 33-40, respectively.

SECTION 32.

Amends SECTION 32, Section 201.057, Tax Code, regarding drilling costs.

SECTIONS 37-39.

Redesignates SECTIONS 37-39 as SECTIONS 45-47, respectively.

SECTION 41.

Amends SECTION 41, Article 1.28(2), Insurance Code, to prohibit a credit or offset in a taxable year from being allowed on certain expenses. Provides that this article prevails over Article 9.59.

SECTION 42.

Adds SECTION 40, Article 4.17(a), Insurance Code, to set forth the components of gross premiums.

SECTION 43.

Adds SECTION 43, Article 20A.32(b)(4), Insurance Code, to prohibit certain credits from being allowed on certain expenses.

SECTION 44.

Adds SECTION 44, Article 20A.33(d), Insurance Code, to set forth the amount of maintenance tax assessed.