

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 340
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Finance
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, Section 22.01, Tax Code, requires the rendering of personal property used in the production of income for ad valorem tax purposes. However, no penalty exists for the failure to render such property. C.S.S.B. 340 creates a penalty for the failure to render such properties and provides criteria for the information that is required to be included in the rendition statement.

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 22.01, Tax Code, by amending Subsection (a) and adding Subsections (f) through (i), as follows:

- (a) Requires a rendition statement to contain certain information related to tangible property for taxation. Deletes existing text “he” and replaces it with “the person.” Makes a nonsubstantive change.

- (f) Provides that notwithstanding Subsections (a) and (b), a rendition statement of a person who owns tangible personal property used for the production of income located in the appraisal district that, in the owner’s opinion, has an aggregate value of less than \$20,000 is only required to render the name and address of the property owner, a general description of the property by type or category, and the physical location or situs of the property.

- (g) Provides that a person’s good faith estimate of the market value of the property under Subsection (a)(5) is solely for the purpose of compliance with the requirement to render tangible personal property and is inadmissible in any subsequent protest, hearing, appeal, suit, or other proceeding involving whether the person complied with this section, a proceeding under Section 22.29(b), or a protest under Section 41.41.

- (h) Provides that if the property is the subject of the rendition is regulated by certain state or federal regulatory entities, the owner of the property is considered to have complied with the requirements of this section if the owner provides to the chief appraiser, on written request of the chief appraiser, a copy of the annual regulatory report covering the property and sufficient information to enable the chief appraiser to allocate the value of the property among the appropriate taxing units for which the appraisal district appraises property.

- (i) Provides that Subsection (a) does not apply to a property owner whose property is subject to appraisal by a third party retained by the appraisal district if the property owner provides information substantially equivalent to that required by Subsection (a) regarding the property directly to the third party appraiser.

SECTION 2. Amends Section 22.07, Tax Code, by adding Subsections (c)-(f), as follows:

- (c) Authorizes the chief appraiser to request either in writing or by electronic means, that

the property owner provide a statement containing supporting information indicating how the value rendered under Section 22.01(a)(5) was determined. Requires the statement to include certain information.

(d) Requires the property owner to deliver the statement to the chief appraiser, either in writing or by electronic means, not later than the 21st day after the date the chief appraiser's request is received. Provides that the owner's statement is solely for informational purposes and it is not admissible in evidence in any subsequent protest, suit, appeal, or other proceeding involving the property other than certain proceedings and protests.

(e) Provides that a statement provided under this section is confidential information and prohibits the statement from being disclosed, except as provided by Section 22.29.

(f) Provides that failure to comply with this section in a timely manner is considered to be a failure to timely render under Section 22.01 and requires penalties as described in Section 22.28 to be applied by the chief appraiser.

SECTION 3. Amends Section 22.23(b), Tax Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires, rather than authorizes, the chief appraiser, on written request of the property owner, rather than for good cause shown in writing, to extend a deadline for filing a rendition statement or property report to May 15, rather than by written order to a date not later than April 30. Authorizes the chief appraiser to further extend the deadline an additional 15 days upon good cause shown in writing by the property owner. Deletes existing text related to extending the filing deadline until April 30, for property regulated by the Public Utility Commission of Texas or the Railroad Commission of Texas.

(c) Prohibits the chief appraiser from adding the value of the omitted property to the 2001 or 2002 appraisal role, if before December 1, 2003, a person files a rendition statement for the 2003 tax year that provides the information required by Section 22.01 as that section exists on January 1, 2004, and, as a result of that information, the chief appraiser discovers that some or all of that person's tangible personal property used for the production of income was omitted from the appraisal role in one of the two preceding years. Provides that this subsection expires January 1, 2005.

SECTION 4. Amends Sections 22.24(b), (c), and (d), Tax Code, as follows:

(b) Requires a person filing a rendition or report to include all information required by Section 22.01, rather than by the form.

(c) Provides that a form may not require, but may permit, a property owner to furnish information not specifically required by this chapter to be reported. Requires, in addition, a form prescribed or approved under this subsection to contain a certain statement in bold type. Deletes existing text related to information not relevant to the appraisal of property for tax purposes or to the assessment or collection of property taxes.

(d) Requires a rendition or report form to permit but not require a property owner to state the owner's good faith estimate of the market value of the property, except as required by Section 22.01(a), rather than providing a form must permit but may not require a property owner to state an opinion about the market value of the owner's property. Makes a nonsubstantive change.

SECTION 5. Amends Chapter 22B, Tax Code, by adding Sections 22.28, 22.29, and 22.30, as follows:

Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Requires the chief appraiser, except as otherwise provided by Section 22.30, to impose a penalty on a person who fails

to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district, rather than 10 percent of the amount of the tax due.

(b) Authorizes the chief appraiser to retain a portion of a penalty collected under this section, not to exceed 20 percent of the amount of the penalty, to cover the chief appraiser's costs of collecting the penalty. Requires the chief appraiser to distribute the remainder of the penalty to each taxing unit participating in the appraisal district that imposes taxes on the property in proportion to the taxing unit's share of the total amount of taxes imposed on the property by all taxing units participating in the district.

Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX. (a) Requires the chief appraiser to impose an additional penalty on the person equal to 50 percent of the total amount of taxes imposed on the property for the tax year of the statement or report by the taxing units participating in the appraisal district if it is finally determined by a court of competent jurisdiction that the person took certain actions related to fraud or the intent to evade the tax.

(b) Requires enforcement of this section to be by a proceeding initiated by the district or county attorney of the county in which the appraisal is established, on behalf of the appraisal district.

(c) Requires the court, in making a determination of liability under this section, to consider certain information.

(d) Authorizes the chief appraiser to retain a portion of a penalty collected under this section, not to exceed 20 percent of the amount of the penalty, to cover the chief appraiser's costs of collecting the penalty. Requires the chief appraiser to distribute the remainder of the penalty to each taxing unit participating in the appraisal district that imposes taxes on the property in proportion to the taxing unit's share of the total amount of taxes imposed on the property by all taxing units participating in the district.

Sec. 22.30. WAIVER OF PENALTY. (a) Authorizes the chief appraiser to waive the penalty imposed by Section 22.28 or 22.29 if the chief appraiser determines that the person exercised reasonable diligence to comply with or has substantially complied with the requirements of this chapter. Requires a written request, accompanied by supporting documentation, stating the grounds on which penalties should be waived to be sent to the chief appraiser not later than the 30th day after the date the person received notification of the imposition of the penalty. Requires the chief appraiser to make a determination of the penalty waiver request based on the information submitted.

(b) Requires the chief appraiser to notify the person of the chief appraiser's determination regarding the penalty waiver request after considering certain factors.

(c) Provides that a property owner is entitled to protest before the appraisal review board the failure or refusal of the chief appraiser to waive a penalty under Subsection (a).

SECTION 6. Amends Section 25.19, Tax Code, by adding Subsection (k), to prohibit the chief appraiser, notwithstanding any other provision of this section, from delivering a written notice concerning property that is required to be rendered or reported under Chapter 22 until the applicable deadline for filing the rendition statement has passed.

SECTION 7. Amends Section 41.43, Tax Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Makes a conforming change related to the creation of Subsection (d), as added by this Act. Provides that in a protest authorized by Section 41.41(a)(1), rather than 41.41(1), the appraisal district has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing.

(d) Provides that if the property owner fails to deliver, before the date of the hearing, a rendition statement or property report required by Chapter 22 or a response to the chief appraiser's request for information under Section 22.07(c), the property owner has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. Requires the protest to be determined in favor of the appraisal district, if the property owner fails to meet the standard.

SECTION 8. (a) Effective date: January 1, 2004, except as provided by Subsection (b).
Makes application of this Act prospective.

(b) Provides that Section 22.23(c), Tax Code, as added by this Act, takes effect September 1, 2003, and applies to the rendition of property for ad valorem tax purposes for the 2003 tax year.

SUMMARY OF COMMITTEE CHANGES

Differs from original in SECTION 1 by requiring a rendition statement to contain a description of each type of inventory and a general estimate of the quantity of each type of inventory, in Section 22.01(a), Tax Code. Provides that notwithstanding Subsections (a) and (b), a rendition statement of a person who owns tangible personal property used for the production of income located in the appraisal district that, in the owner's opinion, has an aggregate value of less than \$20,000 is only required to render the name and address of the property owner, a general description of the property by type or category, and the physical location or situs of the property, in Section 22.01(f), Tax Code. Provides that a person's good faith estimate of the market value of the property under Subsection (a)(5) is solely for the purpose of compliance with the requirement to render tangible personal property and is inadmissible in any subsequent protest, hearing, appeal, suit, or other proceeding involving whether the person complied with this section, a proceeding under Section 22.29(b), or a protest under Section 41.41, in Section 22.01(g), Tax Code.

Differs from original in SECTION 2 by adding Sections 22.07(c)-(f), Tax Code, rather than Section 22.07(c), Tax Code.

Differs from original in SECTION 3 by adding Section 22.23(c), Tax Code.

Differs from original in SECTION 4 by requiring, in addition, a form prescribed or approved under this subsection to contain a certain statement in bold type, in Section 22.24(c), Tax Code.

Differs from original in SECTION 5 by requiring, rather than authorizing, the chief appraiser, except as otherwise provided by Section 22.30, to impose a penalty on a person who fails to timely file a rendition statement or property report required by this chapter in an amount equal to 10 percent of the total amount of taxes imposed on the property for that year by taxing units participating in the appraisal district, rather than 10 percent of the amount of the tax due, in Section 22.28(a), Tax Code. Creates new Section 22.28(b), Tax Code. Requires the chief appraiser to impose an additional penalty on the person equal to 50 percent of the total amount of taxes imposed on the property for the tax year of the statement or reporting by the taxing units participating in the appraisal district if it is finally determined by a court of competent jurisdiction that the person took certain actions related to fraud or the intent to evade the tax, in Section 22.29(a), Tax Code. Creates new Sections 22.29(b)-(d). Authorizes, rather than requires, the chief appraiser to waive the penalty imposed by Section 22.28 or 22.29 if the chief appraiser determines that the person exercised reasonable diligence to comply with or has substantially complied with the requirements of this chapter. Requires a written request, accompanied by supporting documentation, stating the grounds on which penalties should be waived to be sent to the chief appraiser not later than the 30th day after the date the person

received notification of the imposition of the penalty. Requires the chief appraiser to make a determination of the penalty waiver request based on the information submitted, in Section 22.30(a), Tax Code. Creates new Section 22.30(c), Tax Code.

Differs from original in SECTION 6 to prohibit the chief appraiser, notwithstanding any other provision of this section, from delivering a written notice concerning property that is required to be rendered or reported under Chapter 22 until the applicable deadline for filing the rendition statement has passed.

Differs from the original in SECTION 7 by providing that if the property owner fails to deliver, before the date of the hearing, a rendition statement or property report required by Chapter 22 or a response to the chief appraiser's request for information under Section 22.07(c), the property owner has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing.

Differs from original in SECTION 8 by providing that this Act takes effect January 1, 2004, and applies only to the rendition of property for ad valorem tax purposes for a tax year that begins on or after that date, except as provided by Subsection (b) of this section. Creates new Subsection (b).