

BILL ANALYSIS

Senate Research Center
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S.B. 896
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Finance
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DIGEST AND PURPOSE

Tax practice has changed and evolved over the years, but refund provisions in the Texas Tax Code have not. The current code contains ambiguities that should be eliminated so that both the state and taxpayers clearly understand who can seek a refund and how the refund provisions should be applied. As proposed, S.B. 896 implements recommendation GG 30 from the comptroller's e-Texas initiative. The bill allows a tax refund claim to be filed with the comptroller only by the person who directly paid the tax to this state, or by the person's attorney, assignee or successor. S.B. 896 also requires reasons for a refund to be included in the claim, and amends provisions relating to administrative hearings and the tolling of limitation periods.

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 111.104, Tax Code, by amending Subsections (b) and (c) and adding Subsection (g), as follows:

(b) Authorizes a tax refund claim to be filed with the comptroller of public accounts of the State of Texas (comptroller) only by the person who directly paid the tax to this state or by the person's attorney, assignee, or other successor, except as otherwise provided by Subsection (g).

(c) Requires a claim for a refund to state fully and in detail each reason or ground on which the claim is founded. Makes a nonsubstantive change.

(g) Authorizes a claim for a refund for tax paid under Chapter 151 to be filed with the comptroller only by certain persons, subject to the requirements of Subsection (c).

SECTION 2. Amends Section 111.1042, Tax Code, by adding Subsection (d) to provide that if the right to a hearing is not exercised on a full or partial denial of a claim for refund, the period during which the comptroller informally reviewed the claim for refund is not considered in determining the expiration date of the limitation period for any subsequent claim for refund on the same period and type of tax for which the claim for refund was fully or partially denied.

SECTION 3. Amends Section 111.105, Tax Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Provides that a person claiming a refund under Section 111.104 is entitled to a hearing on the claim if the person requests a hearing on or before the 30th day after the date, rather than in accordance with procedures prescribed by, the comptroller issues a letter denying the claim for refund.

(e) Requires a person claiming a refund under Section 111.104 to submit documentation to enable the comptroller to verify the claim for refund, during the administrative hearing process. Authorizes the comptroller to issue a notice of demand that all evidence to

support a claim for refund is required to be produced before the expiration of a specified date in the notice. Prohibits the specified date in the notice from being less than 180 days. Prohibits the comptroller from considering evidence produced after the specified date in the notice in an administrative hearing. Provides that the limitation provided by this subsection does not apply to a judicial proceeding filed in accordance with Chapter 112.

SECTION 4. Amends Section 111.107, Tax Code, as follows:

- (a) Creates this subsection from existing text.
- (b) Prohibits a person from filing a claim for refund for taxes paid on the same item or transaction for the same tax type and for the same period that was the subject of a prior refund claim that was denied by the comptroller.

SECTION 5. Amends Sections 111.206(b), (c), and (d), Tax Code, as follows:

- (b) Requires a final determination that affects the amount of liability of a tax imposed by this title to be reported to the comptroller before the expiration of 120, rather than 60, days after the day on which the determination becomes final.
- (c) Authorizes the comptroller, notwithstanding the expiration of a period of limitation provided in this title, to assess and collect or bring suit for the collection of any tax deficiency, including penalties and interest, resulting from a final determination at any time before the expiration of one year after certain dates.
- (d) Authorizes the taxpayer, if a final determination results in the taxpayer having overpaid the amount of tax due the state, to file a claim for refund with the comptroller for the amount of the overpayment before the first anniversary of the date the final determination becomes final. Authorizes the taxpayer, if the comptroller assesses tax by issuing a deficiency determination within the period provided by Subsection (c), to file a claim for refund for an amount of tax that has been found due in a deficiency determination before the 180th day after the deficiency determination becomes final, but limits the claim to the items and the tax payment period for which the determination was issued.

SECTION 6. Amends Sections 111.207(a) and (b), Tax Code, as follows:

- (a) Provides that in determining the expiration date for a period when a tax imposed by this title may be assessed, collected, or refunded, certain periods are not considered.
- (b) Provides that the suspension of a period of limitation under Subsection (a) is limited to the issues that were contested under Subdivision (1), (2), or (3) of that subsection.

SECTION 7. Amends Section 151.430(c), Tax Code, to authorize the person to obtain reimbursement for amounts determined to have been overpaid by filing a claim for refund with the comptroller within the limitation period specified by Subchapter D, Chapter 111.

SECTION 8. Repealer: Section 111.207(d), Tax Code.

SECTION 9. (a) Effective date: upon passage or September 1, 2003.

- (b) Makes application of this Act prospective.