

By: Allen

H.B. No. 1851

A BILL TO BE ENTITLED

AN ACT

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relating to the rendition and appraisal of property for ad valorem tax purposes and to the consequences of a failure to timely render property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.01(a), Tax Code, is amended to read as follows:

(a) Except as provided by Chapter 24 [~~of this code~~], a person shall render for taxation:

(1) all tangible personal property used for the production of income that the person [he] owns or [that he] manages and controls as a fiduciary on January 1, if the aggregate cost of all of the tangible personal property used for the production of income that the person owns or manages and controls as a fiduciary on that date and that is located in the appraisal district is at least \$100,000; and

(2) all real property used for the production of income, other than property appraised under Subchapter C, D, E, F, G, or H, Chapter 23, that the person owns or manages and controls as a fiduciary on January 1.

SECTION 2. Section 22.23(b), Tax Code, is amended to read as follows:

(b) For good cause shown in writing by the property owner, the chief appraiser shall [~~may~~] extend a deadline for filing a

1 rendition statement or property report by written order to a date  
2 not later than April 30. The [~~However, if the property that is the~~  
3 ~~subject of the rendition is regulated by the Public Utility~~  
4 ~~Commission of Texas or the Railroad Commission of Texas, the~~] chief  
5 appraiser [~~, upon written request by the property owner, shall~~  
6 ~~extend the filing deadline until April 30, and~~] may further extend  
7 the deadline an additional 15 days for [~~upon~~] good cause shown in  
8 writing by the property owner.

9 SECTION 3. Subchapter B, Chapter 22, Tax Code, is amended by  
10 adding Section 22.231 to read as follows:

11 Sec. 22.231. REQUIREMENT TO DELIVER RENDITION STATEMENT OR  
12 PROPERTY REPORT; INJUNCTION. (a) A requirement under this chapter  
13 to deliver a rendition statement or property report to a chief  
14 appraiser is mandatory.

15 (b) If a person required by this chapter to deliver a  
16 rendition statement or property report to the chief appraiser fails  
17 to deliver the statement or report in the time required by this  
18 chapter, the chief appraiser may bring suit for an injunction  
19 requiring the person to deliver the statement or report.

20 SECTION 4. Section 22.24, Tax Code, is amended by amending  
21 Subsection (c), adding Subsections (c-1) and (c-2), and amending  
22 Subsection (d) to read as follows:

23 (c) The comptroller may prescribe or approve different  
24 forms for different kinds of property but shall ensure that each  
25 form requires a property owner to furnish the information necessary  
26 to identify the property and to determine its ownership,  
27 taxability, and situs.

1        (c-1) A rendition or report form for tangible personal  
2 property used for the production of income must require the  
3 property owner to state:

4            (1) the location of the property;

5            (2) the original cost of the property as reflected in  
6 the books and records of the property owner;

7            (3) the tax year in which the property owner acquired  
8 the property; and

9            (4) the property owner's good faith estimate of the  
10 market value of the property.

11        (c-2) A rendition or report form may require a property  
12 owner to include other information that the comptroller determines  
13 to be necessary for the proper administration of taxation of  
14 property subject to this chapter but may not require a property  
15 owner to furnish information not relevant to the appraisal of  
16 property for tax purposes or to the assessment or collection of  
17 property taxes.

18        (d) A rendition or report form for property other than  
19 tangible personal property used for the production of income shall  
20 permit but may not require a property owner to state the property  
21 owner's [his] opinion about the market value of the [his] property.

22        SECTION 5. Subchapter B, Chapter 22, Tax Code, is amended by  
23 adding Sections 22.28 and 22.29 to read as follows:

24        Sec. 22.28. FAILURE TO TIMELY DELIVER RENDITION STATEMENT  
25 OR PROPERTY REPORT; OMISSION OF PROPERTY; PENALTIES. (a) If a  
26 person required by Section 22.01(a), 22.04, or 22.05 to deliver a  
27 rendition statement or property report to the chief appraiser fails

1 to deliver the statement or report in the time required by this  
2 chapter, a penalty is imposed on the property required to be  
3 included in the statement or report payable to each taxing unit that  
4 imposes taxes on the property. The amount of the penalty payable to  
5 each taxing unit is equal to five percent of the amount of taxes  
6 ultimately imposed by the taxing unit for the tax year on the  
7 property that was required to be included in the statement or report  
8 for the first calendar month the person fails to deliver the  
9 statement or report plus five percent for each additional month or  
10 portion of a month the person fails to deliver the statement or  
11 report, not to exceed a total of 25 percent of the amount of taxes  
12 ultimately imposed by the taxing unit for the tax year on the  
13 property.

14 (b) If a person required by Section 22.01(a), 22.04, or  
15 22.05 to deliver a rendition statement or property report to the  
16 chief appraiser delivers the statement or report in the time  
17 required by this chapter but omits property required to be included  
18 in the statement or report, a penalty is imposed on the property  
19 omitted from the statement or report payable to each taxing unit  
20 that imposes taxes on the property. The amount of the penalty  
21 payable to each taxing unit is equal to 25 percent of the amount of  
22 taxes ultimately imposed by the taxing unit for the tax year on the  
23 omitted property.

24 (c) Notwithstanding Subsections (a) and (b), if the amount  
25 of the penalty computed under the applicable subsection is less  
26 than \$1, the amount of the penalty is \$1.

27 (d) If a person required by Section 22.01(a), 22.04, or

1 22.05 to deliver a rendition statement or property report to the  
2 chief appraiser fails to deliver the statement or report in the time  
3 required by this chapter or omits property from the statement or  
4 report, the chief appraiser shall:

5 (1) appraise the property as of January 1 of the year  
6 in which the person was required to deliver the rendition statement  
7 or property report or was required to include the property on the  
8 statement or report and enter in the appraisal records the  
9 appraised and taxable value of the property, if the property was not  
10 previously included in the appraisal records;

11 (2) make an entry in the appraisal records for the  
12 property indicating liability for the penalty imposed under  
13 Subsection (a) or (b) and the amount of the penalty, if known; and

14 (3) send a written notice of imposition of the penalty  
15 to the person required to deliver the statement or report that  
16 includes an explanation of the procedures for protesting the  
17 imposition of the penalty.

18 (e) The assessor for each taxing unit that imposes taxes on  
19 the property shall add the amount of the penalty to the unit's tax  
20 bill for taxes on the property or, if the tax bill has been  
21 delivered, shall deliver to the property owner a supplemental bill  
22 for the penalty. The penalty is due and shall be collected at the  
23 same time and in the same manner as the taxes on the property.

24 (f) A penalty imposed under Subsection (a) or (b) that  
25 becomes delinquent accrues penalties and interest in the same  
26 manner as a delinquent tax.

27 (g) A penalty imposed under Subsection (a) or (b) and any

1 penalty or interest accruing on the penalty:

2 (1) are the personal obligation of the property owner;  
3 and

4 (2) constitute a lien on the property on which the  
5 penalty is imposed.

6 Sec. 22.29. INVESTIGATIONS AND AUDITS. (a) The chief  
7 appraiser, or a person authorized by the chief appraiser in  
8 writing, may:

9 (1) examine, copy, and photograph the books, records,  
10 and papers of a person who files a rendition statement or property  
11 report required by this chapter to verify the accuracy of the  
12 statement or report; and

13 (2) by delivery of written notice to the property  
14 owner or to an employee, representative, or agent of the property  
15 owner, not later than the 20th working day after the date the notice  
16 is delivered, require the property owner to produce to the chief  
17 appraiser or an agent or designated representative of the chief  
18 appraiser for inspection the books, records, and papers used as a  
19 basis for the preparation of the rendition statement or property  
20 report.

21 (b) If the chief appraiser determines as the result of an  
22 investigation under this section that the chief appraiser's  
23 reliance on a rendition statement or property report resulted in  
24 the omission of tangible personal property in the current tax year  
25 or in any one of the two preceding tax years or the undervaluation  
26 of real property in the current tax year or in any one of the five  
27 preceding tax years, the chief appraiser shall add the omitted

1 tangible personal property or the portion of the appraised value of  
2 undervalued real property that was erroneously omitted for each tax  
3 year to the appraisal roll as provided by Section 25.21 for other  
4 property that escapes taxation.

5 (c) The chief appraiser may not conduct an investigation of  
6 a property owner under this section more frequently than once every  
7 three years, except that if the chief appraiser takes action under  
8 Subsection (b) as a result of an investigation of a property owner,  
9 the chief appraiser may conduct an investigation of the property  
10 owner in the following year.

11 (d) Copies of books, records, or papers made or retained by  
12 the chief appraiser or an agent or representative of the chief  
13 appraiser in the course of an investigation under this section are  
14 confidential to the same degree that a rendition statement or  
15 property report is confidential under Section 22.27.

16 (e) The chief appraiser may not employ a person on a  
17 contingency fee basis to conduct an audit under this section.

18 SECTION 6. The heading to Section 23.011, Tax Code, is  
19 amended to read as follows:

20 Sec. 23.011. COST METHOD OF APPRAISAL: REAL PROPERTY.

21 SECTION 7. Subchapter A, Chapter 23, Tax Code, is amended by  
22 adding Section 23.0115 to read as follows:

23 Sec. 23.0115. COST METHOD OF APPRAISAL: TANGIBLE PERSONAL  
24 PROPERTY. (a) If the chief appraiser uses the cost method of  
25 appraisal to determine the market value of tangible personal  
26 property used for the production of income on the basis of  
27 information provided in a rendition statement or property report,

1 the chief appraiser shall use the methods and procedures specified  
2 by the appraisal manuals developed under Subsection (b) to  
3 determine the depreciated value of the property.

4 (b) The comptroller by rule shall develop and distribute to  
5 each appraisal office appraisal manuals that:

6 (1) prescribe depreciation schedules for common types  
7 of tangible personal property used for the production of income;

8 (2) specify the methods of applying the schedules to  
9 appraise property on the basis of information provided in a  
10 rendition statement or property report; and

11 (3) prescribe the method that a chief appraiser shall  
12 use to calculate depreciation for any type of tangible personal  
13 property used for the production of income that is not covered by a  
14 depreciation schedule prescribed by the comptroller.

15 SECTION 8. Section 23.013, Tax Code, is amended to read as  
16 follows:

17 Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL.  
18 If the chief appraiser uses the market data comparison method of  
19 appraisal to determine the market value of [~~real~~] property, the  
20 chief appraiser shall use comparable sales data and shall adjust  
21 the comparable sales to the subject property.

22 SECTION 9. Subchapter C, Chapter 41, Tax Code, is amended by  
23 adding Section 41.414 to read as follows:

24 Sec. 41.414. PROTEST OF PENALTY FOR FAILURE TO RENDER  
25 PROPERTY. (a) An owner of property on which a penalty is imposed  
26 under Section 22.28 for a failure to deliver a rendition statement  
27 or property report in the time required by Chapter 22 or for the



1 omission of property required to be included in a rendition  
2 statement or property report may protest the imposition of the  
3 penalty.

4 (b) A protest under this section shall be determined in  
5 favor of the property owner if the owner shows that the owner's  
6 failure to timely deliver the rendition statement or property  
7 report or the owner's omission of property required to be included  
8 in the rendition statement or property report was not intentional  
9 or for the purpose of evading or illegally avoiding the payment of  
10 taxes.

11 (c) If the appraisal review board determines the protest in  
12 favor of the property owner, the board may reduce or waive the  
13 penalty.

14 SECTION 10. Section 41.43, Tax Code, is amended by amending  
15 Subsection (a) and adding Subsection (d) to read as follows:

16 (a) Except as provided by Subsection (d), in [~~In~~] a protest  
17 authorized by Section 41.41(a)(1) [~~41.41(1)~~] or (2), the appraisal  
18 district has the burden of establishing the value of the property by  
19 a preponderance of the evidence presented at the hearing. If the  
20 appraisal district fails to meet that standard, the protest shall  
21 be determined in favor of the property owner.

22 (d) If before the date of the hearing the property owner  
23 fails to deliver a rendition statement or property report as  
24 required by Chapter 22 for the property that is the subject of the  
25 protest:

26 (1) the property owner has the burden of establishing  
27 the market value of the property by a preponderance of the evidence

1 presented at the hearing; and

2 (2) if the property owner fails to meet the standard  
3 provided by Subdivision (1), the protest shall be determined in  
4 favor of the appraisal district.

5 SECTION 11. Section 42.29, Tax Code, is amended by adding  
6 Subsection (c) to read as follows:

7 (c) Notwithstanding Subsection (a), a property owner may  
8 not be awarded attorney's fees if the property owner fails to timely  
9 deliver a rendition statement or property report as required by  
10 Chapter 22 for the property that is the subject of the appeal.

11 SECTION 12. (a) This Act takes effect January 1, 2004, and  
12 applies only to ad valorem taxes imposed for a tax year beginning on  
13 or after that date and the rendition of property for ad valorem tax  
14 purposes for a tax year that begins on or after that date.

15 (b) Section 22.29, Tax Code, as added by this Act,  
16 authorizes the addition to an appraisal roll of omitted tangible  
17 personal property or the portion of the appraised value of  
18 undervalued real property that was erroneously omitted only for a  
19 tax year beginning on or after the effective date of this Act.