

By: Hill

H.B. No. 2378

A BILL TO BE ENTITLED

AN ACT

relating to the rendition of property for ad valorem tax purposes;
providing civil penalties.

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

SECTION 1. Section 22.01, Tax Code, is amended by amending
Subsection (a) and adding Subsections (f)-(i) to read as follows:

(a) Except as provided by Chapter 24 [~~of this code~~], a
person shall render for taxation all tangible personal property
used for the production of income that the person [~~he~~] owns or that
the person [~~he~~] manages and controls as a fiduciary on January 1. A
rendition statement shall contain:

(1) the name and address of the property owner;

(2) a description of the property by type or category;

(3) if the property is inventory, a description of
each type of inventory and a general estimate of the quantity of
each type of inventory;

(4) the physical location or taxable situs of the
property; and

(5) the property owner's good faith estimate of the
market value of the property or, at the option of the property
owner, the historical cost when new and the year of acquisition of
the property.

(f) Notwithstanding Subsections (a) and (b), a rendition
statement of a person who owns tangible personal property used for

1 the production of income located in the appraisal district that, in
2 the owner's opinion, has an aggregate value of less than \$20,000 is
3 required to contain only:

4 (1) the name and address of the property owner;

5 (2) a general description of the property by type or
6 category; and

7 (3) the physical location or taxable situs of the
8 property.

9 (g) A person's good faith estimate of the market value of
10 the property under Subsection (a)(5) is solely for the purpose of
11 compliance with the requirement to render tangible personal
12 property and is inadmissible in any subsequent protest, hearing,
13 appeal, suit, or other proceeding involving the property, except
14 for:

15 (1) a proceeding to determine whether the person
16 complied with this section;

17 (2) a proceeding under Section 22.29(b); or

18 (3) a protest under Section 41.41.

19 (h) If the property that is the subject of the rendition is
20 regulated by the Public Utility Commission of Texas, the Railroad
21 Commission of Texas, the federal Surface Transportation Board, or
22 the Federal Energy Regulatory Commission, the owner of the property
23 is considered to have complied with the requirements of this
24 section if the owner provides to the chief appraiser, on written
25 request of the chief appraiser, a copy of the annual regulatory
26 report covering the property and sufficient information to enable
27 the chief appraiser to allocate the value of the property among the

1 appropriate taxing units for which the appraisal district appraises
2 property.

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

8 SECTION 2. Section 22.07, Tax Code, is amended by adding
9 Subsections (c)-(e) to read as follows:

10 (c) The chief appraiser may request, either in writing or by
11 electronic means, that the property owner provide a statement
12 containing supporting information indicating how the owner's good
13 faith estimate of value rendered under Section 22.01(a)(5) was
14 determined. The statement must:

15 (1) summarize information sufficient to identify the
16 property, including the physical and economic characteristics
17 relevant to the opinion of value, if appropriate;

18 (2) state the effective date of the opinion of value;
19 and

20 (3) explain the basis of the value rendered.

21 (d) The property owner shall deliver the statement to the
22 chief appraiser, either in writing or by electronic means, not
23 later than the 21st day after the date the chief appraiser's request
24 is received. The owner's statement is solely for informational
25 purposes and is not admissible in evidence in any subsequent
26 protest, suit, appeal, or other proceeding involving the property
27 other than:

1 (1) a proceeding to determine whether the property
2 owner has complied with this section;

3 (2) a proceeding under Section 22.29(b); or

4 (3) a protest under Section 41.41.

5 (e) A statement provided under this section is confidential
6 information and may not be disclosed, except as provided by Section
7 22.27.

8 SECTION 3. Section 22.23, Tax Code, is amended by amending
9 Subsection (b) and adding Subsection (c) to read as follows:

10 (b) On written request [~~For good cause shown in writing~~] by
11 the property owner, the chief appraiser shall [~~may~~] extend a
12 deadline for filing a rendition statement or property report [~~by~~
13 ~~written order~~] to May 15 [~~a date not later than April 30~~]. The chief
14 appraiser [~~However, if the property that is the subject of the~~
15 ~~rendition is regulated by the Public Utility Commission of Texas or~~
16 ~~the Railroad Commission of Texas, the chief appraiser, upon written~~
17 ~~request by the property owner, shall extend the filing deadline~~
18 ~~until April 30, and~~] may further extend the deadline an additional
19 15 days upon good cause shown in writing by the property owner.

20 (c) If before December 1, 2003, a person files a rendition
21 statement for the 2003 tax year that provides the information
22 required by Section 22.01 as that section exists on January 1, 2004,
23 and, as a result of that information, the chief appraiser discovers
24 that some or all of that person's tangible personal property used
25 for the production of income was omitted from the appraisal roll in
26 one of the two preceding years, the chief appraiser may not add the
27 value of the omitted property to the 2001 or 2002 appraisal roll.

1 This subsection expires January 1, 2005.

2 SECTION 4. Sections 22.24(b)-(d), Tax Code, are amended to
3 read as follows:

4 (b) A person filing a rendition or report shall include all
5 information required by Section 22.01 ~~[the form]~~.

6 (c) The comptroller may prescribe or approve different
7 forms for different kinds of property but shall ensure that each
8 form requires a property owner to furnish the information necessary
9 to identify the property and to determine its ownership,
10 taxability, and situs. A form may not require but may permit a
11 property owner to furnish information not specifically required by
12 this chapter to be reported. In addition, a form prescribed or
13 approved under this subsection must contain the following statement
14 in bold type: "If you make a false statement on this form, you could
15 be found guilty of a Class A misdemeanor or a state jail felony
16 under Section 37.10, Penal Code." ~~[relevant to the appraisal of~~
17 ~~property for tax purposes or to the assessment or collection of~~
18 ~~property taxes.]~~

19 (d) Except as required by Section 22.01(a), a [A] rendition
20 or report form shall permit but ~~[may]~~ not require a property owner
21 to state the owner's good faith estimate of ~~[his opinion about]~~ the
22 market value of the ~~[his]~~ property.

23 SECTION 5. Subchapter B, Chapter 22, Tax Code, is amended by
24 adding Sections 22.28, 22.29, and 22.30 to read as follows:

25 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as
26 otherwise provided by Section 22.30, the chief appraiser shall
27 impose a penalty on a person who fails to timely file a rendition

1 statement or property report required by this chapter in an amount
2 equal to 10 percent of the total amount of taxes imposed on the
3 property for that year by taxing units participating in the
4 appraisal district.

5 (b) The chief appraiser may retain a portion of a penalty
6 collected under this section, not to exceed 20 percent of the amount
7 of the penalty, to cover the chief appraiser's costs of collecting
8 the penalty. The chief appraiser shall distribute the remainder of
9 the penalty to each taxing unit participating in the appraisal
10 district that imposes taxes on the property in proportion to the
11 taxing unit's share of the total amount of taxes imposed on the
12 property by all taxing units participating in the district.

13 Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX. (a)
14 The chief appraiser shall impose an additional penalty on the
15 person equal to 50 percent of the total amount of taxes imposed on
16 the property for the tax year of the statement or report by the
17 taxing units participating in the appraisal district if it is
18 finally determined by a court that:

19 (1) the person filed a false statement or report with
20 the intent to commit fraud or to evade the tax; or

21 (2) the person alters, destroys, or conceals any
22 record, document, or thing, or presents to the chief appraiser any
23 altered or fraudulent record, document, or thing, or otherwise
24 engages in fraudulent conduct, for the purpose of affecting the
25 course or outcome of an inspection, investigation, determination,
26 or other proceeding before the appraisal district.

27 (b) Enforcement of this section shall be by a proceeding

1 initiated by the district or county attorney of the county in which
2 the appraisal is established, on behalf of the appraisal district.

3 (c) In making a determination of liability under this
4 section, the court shall consider:

5 (1) the person's compliance history with respect to
6 paying taxes and filing statements or reports;

7 (2) the type, nature, and taxability of the specific
8 property involved;

9 (3) the type, nature, size, and sophistication of the
10 person's business or other entity for which property is rendered;

11 (4) the completeness of the person's records;

12 (5) the person's reliance on advice provided by the
13 appraisal district that may have contributed to the violation;

14 (6) any change in appraisal district policy during the
15 current or preceding tax year that may affect how property is
16 rendered; and

17 (7) any other factor the court considers relevant.

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

26 Sec. 22.30. WAIVER OF PENALTY. (a) The chief appraiser may
27 waive the penalty imposed by Section 22.28 or 22.29 if the chief

1 appraiser determines that the person exercised reasonable
2 diligence to comply with or has substantially complied with the
3 requirements of this chapter. A written request, accompanied by
4 supporting documentation, stating the grounds on which penalties
5 should be waived must be sent to the chief appraiser not later than
6 the 30th day after the date the person received notification of the
7 imposition of the penalty. The chief appraiser shall make a
8 determination of the penalty waiver request based on the
9 information submitted.

10 (b) The chief appraiser shall notify the person of the chief
11 appraiser's determination regarding the penalty waiver request
12 after considering:

13 (1) the person's compliance history with respect to
14 paying taxes and filing statements or reports;

15 (2) the type, nature, and taxability of the specific
16 property involved;

17 (3) the type, nature, size, and sophistication of the
18 person's business or other entity for which property is rendered;

19 (4) the completeness of the person's records;

20 (5) the person's reliance on advice provided by the
21 appraisal district that may have contributed to the person's
22 failure to comply and the imposition of the penalty;

23 (6) any change in appraisal district policy during the
24 current or preceding tax year that may affect how property is
25 rendered; and

26 (7) any other factors that may have caused the person
27 to fail to timely file a statement or report.

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

4 SECTION 6. Section 25.19, Tax Code, is amended by adding
5 Subsection (k) to read as follows:

6 (k) Notwithstanding any other provision of this section,
7 the chief appraiser may not deliver a written notice concerning
8 property that is required to be rendered or reported under Chapter
9 22 until after the applicable deadline for filing the rendition
10 statement or property report.

11 SECTION 7. Section 41.43, Tax Code, is amended by amending
12 Subsection (a) and adding Subsection (d) to read as follows:

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

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

27 SECTION 8. (a) Except as provided by Subsection (b) of this

1 section, this Act takes effect January 1, 2004, and applies only to
2 the rendition of property for ad valorem tax purposes for a tax year
3 that begins on or after that date.

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