

By: Giddings

H.B. No. 2803

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subchapter B, Chapter 22, Tax Code, is amended by adding Section 22.231 to read as follows:

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

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

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

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

(c-1) A rendition or report form for tangible personal

1 property used for the production of income must require the
2 property owner to describe the property and to state:

3 (1) the location of the property;

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

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

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

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

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

21 SECTION 3. Subchapter B, Chapter 22, Tax Code, is amended by
22 adding Sections 22.28 and 22.29 to read as follows:

23 Sec. 22.28. PENALTY FOR FAILURE TO DELIVER RENDITION
24 STATEMENT OR PROPERTY REPORT. (a) If a person required by Section
25 22.01, 22.04, or 22.05 to deliver a rendition statement or property
26 report to the chief appraiser fails to deliver the statement or
27 report in the time required by this chapter, a penalty is imposed on

1 the property required to be included on the statement or report by
2 each taxing unit that imposes taxes on the property.

3 (b) The amount of the penalty is equal to:

4 (1) five percent of the amount of taxes ultimately
5 imposed by the taxing unit for the tax year on the property if the
6 person delivers the rendition statement or property report to the
7 chief appraiser before the 31st day after the date the statement or
8 report is due; or

9 (2) 10 percent of the amount of taxes ultimately
10 imposed by the taxing unit for the tax year on the property if the
11 person fails to deliver the rendition statement or property report
12 to the chief appraiser before the 31st day after the date the
13 statement or report is due.

14 (c) Notwithstanding Subsection (b), if the amount of the
15 penalty computed under that subsection is less than \$1, the amount
16 of the penalty is \$1.

17 (d) The penalty provided by this section is not imposed if:

18 (1) the rendition statement or property report was
19 required by Section 22.01; and

20 (2) the chief appraiser determines that the appraised
21 value of the property for which the statement or report was required
22 does not exceed \$10,000.

23 (e) If a person required by Section 22.01, 22.04, or 22.05
24 to deliver a rendition statement or property report to the chief
25 appraiser fails to deliver the statement or report in the time
26 required by this chapter, the chief appraiser shall:

27 (1) appraise the property as of January 1 of the year

1 in which the person was required to deliver the rendition statement
2 or property report and enter in the appraisal records the appraised
3 and taxable value of the property, if the property was not
4 previously included in the appraisal records;

5 (2) make an entry in the appraisal records for the
6 property indicating liability for the penalty imposed under
7 Subsection (a) and the amount of the penalty, if known; and

8 (3) send a written notice of imposition of the penalty
9 to the person required to deliver the statement or report that
10 includes an explanation of the procedures for protesting the
11 imposition of the penalty.

12 (f) The assessor for each taxing unit that imposes taxes on
13 the property shall add the amount of the penalty to the unit's tax
14 bill for taxes on the property or, if the tax bill has been
15 delivered, shall deliver to the property owner a supplemental bill
16 for the penalty. The penalty is due and shall be collected at the
17 same time and in the same manner as the taxes on the property.

18 (g) A penalty imposed under Subsection (a) that becomes
19 delinquent accrues penalties and interest in the same manner as a
20 delinquent tax.

21 (h) A penalty imposed under Subsection (a) and any penalty
22 or interest accruing on the penalty:

23 (1) are the personal obligation of the property owner;
24 and

25 (2) constitute a lien on the property on which the
26 penalty is imposed.

27 Sec. 22.29. INVESTIGATIONS AND AUDITS. (a) The chief

1 appraiser may apply to the appraisal review board for authorization
2 to conduct an investigation of a property owner under this section.
3 The appraisal review board may authorize the investigation on a
4 showing of good cause for the investigation. If the appraisal
5 review board authorizes the investigation, the chief appraiser, or
6 a person authorized by the chief appraiser in writing, may:

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

11 (2) by delivery of written notice to the property
12 owner or to an employee, representative, or agent of the property
13 owner, not later than the 10th working day after the date the notice
14 is delivered, require the property owner to produce to the chief
15 appraiser or an agent or designated representative of the chief
16 appraiser for inspection the books, records, and papers used as a
17 basis for the preparation of the rendition statement or property
18 report.

19 (b) If the chief appraiser determines as the result of an
20 investigation under this section that the chief appraiser's
21 reliance on a rendition statement or property report resulted in
22 the omission or undervaluation of taxable property in the current
23 tax year or in any one of the five preceding tax years, the chief
24 appraiser shall add the omitted property or the portion of the
25 appraised value of undervalued property that was erroneously
26 omitted for each tax year to the appraisal roll as provided by
27 Section 25.21 for other property that escapes taxation.

1 (c) The chief appraiser may not conduct an investigation of
2 a property owner under this section more frequently than once every
3 three years, except that if the chief appraiser takes action under
4 Subsection (b) as a result of an investigation of a property owner,
5 the chief appraiser, with the authorization of the appraisal review
6 board, may conduct an investigation of the property owner in the
7 following year.

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

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

15 SECTION 4. The heading to Section 23.011, Tax Code, is
16 amended to read as follows:

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

18 SECTION 5. Subchapter A, Chapter 23, Tax Code, is amended by
19 adding Section 23.0115 to read as follows:

20 Sec. 23.0115. COST METHOD OF APPRAISAL: TANGIBLE PERSONAL
21 PROPERTY. (a) If the chief appraiser uses the cost method of
22 appraisal to determine the value of tangible personal property used
23 for the production of income on the basis of information provided in
24 a rendition statement or property report, the chief appraiser shall
25 use the methods and procedures specified by the appraisal manuals
26 developed under Subsection (b) to determine the depreciated value
27 of the property.

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

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

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

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

12 SECTION 6. Section 41.43, Tax Code, is amended by amending
13 Subsection (a) and adding Subsection (d) to read as follows:

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

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

24 (1) the property owner has the burden of establishing
25 the value of the property by a preponderance of the evidence
26 presented at the hearing; and

27 (2) if the property owner fails to meet the standard

1 provided by Subdivision (1), the protest shall be determined in
2 favor of the appraisal district.

3 SECTION 7. Section 42.29, Tax Code, is amended by adding
4 Subsection (c) to read as follows:

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

9 SECTION 8. (a) This Act takes effect January 1, 2004, and
10 applies only to ad valorem taxes imposed for a tax year beginning on
11 or after that date and the rendition of property for ad valorem tax
12 purposes for a tax year that begins on or after that date.

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

18 (c) If a person failed to render or report property for
19 taxation as required by Chapter 22, Tax Code, for a tax year that
20 began before January 1, 2004, but, before a chief appraiser
21 requests the person to render or report the property or brings a
22 suit to require the person to render or report the property,
23 voluntarily renders or reports the property for taxation as
24 required by that chapter for a tax year that begins on or after
25 January 1, 2004, a chief appraiser may not add the property to an
26 appraisal roll for a tax year beginning before January 1, 2004. For
27 purposes of this subsection, an inventory of tangible personal

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1 property is considered the same property in different tax years if
2 the inventory is located at the same place and consists of similar
3 tangible personal property in each tax year.