

By: Staples

S.B. No. 340

A BILL TO BE ENTITLED

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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) through (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 the
type and a general estimate of the quantity of the property;
- (4) the physical location or 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 person who
owns tangible personal property used for the production of income

1 located in the appraisal district that, in the owner's opinion, has
2 an aggregate value of less than \$20,000 is only required to render
3 the name and address of the property owner and the physical location
4 or situs of the property.

5 (g) A person's good faith estimate of the market value of
6 the property under Subsection (a)(5) is solely for the purpose of
7 compliance with the requirement to render tangible personal
8 property and is inadmissible in any subsequent protest, hearing,
9 appeal, suit, or other proceeding involving the property, except
10 for a proceeding to determine whether the person complied with this
11 section.

12 (h) If the property that is the subject of the rendition is
13 regulated by the Public Utility Commission of Texas, the Railroad
14 Commission of Texas, the federal Surface Transportation Board, or
15 the Federal Energy Regulatory Commission, the owner of the property
16 is deemed to have complied with the requirements of this section if
17 the owner provides to the chief appraiser, on written request of the
18 chief appraiser, a copy of the annual regulatory report covering
19 the property and sufficient information to enable the chief
20 appraiser to allocate the value of the property among the
21 appropriate taxing jurisdictions in the appraisal district.

22 (i) Subsection (a) does not apply to a property owner whose
23 property is subject to appraisal by a third party retained by the
24 appraisal district if the property owner provides information
25 regarding the property directly to the third party appraiser.

26 SECTION 2. Section 22.07, Tax Code, is amended by adding
27 Subsection (c) to read as follows:

1 (c) The chief appraiser may request, either in writing or by
2 electronic means, that the property owner provide a statement
3 containing supporting information indicating how the owner's good
4 faith estimate of value rendered under Section 22.01(a)(5) was
5 determined. The property owner shall provide the statement, either
6 in writing or by electronic means, not later than the 15th day after
7 the date the chief appraiser's request is received. The owner's
8 statement is solely for informational purposes and is not
9 admissible as evidence in any subsequent protest, suit, appeal, or
10 other proceeding involving the property.

11 SECTION 3. Subsection (b), Section 22.23, Tax Code, is
12 amended to read as follows:

13 (b) On written request [~~For good cause shown in writing~~] by
14 the property owner, the chief appraiser shall [~~may~~] extend a
15 deadline for filing a rendition statement or property report [~~by~~
16 ~~written order~~] to May 15 [~~a date not later than April 30~~]. The chief
17 appraiser [~~However, if the property that is the subject of the~~
18 ~~rendition is regulated by the Public Utility Commission of Texas or~~
19 ~~the Railroad Commission of Texas, the chief appraiser, upon written~~
20 ~~request by the property owner, shall extend the filing deadline~~
21 ~~until April 30, and~~] may further extend the deadline an additional
22 15 days upon good cause shown in writing by the property owner.

23 SECTION 4. Subsections (b), (c), and (d), Section 22.24,
24 Tax Code, are amended to read as follows:

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

27 (c) The comptroller may prescribe or approve different

1 forms for different kinds of property but shall ensure that each
2 form requires a property owner to furnish the information necessary
3 to identify the property and to determine its ownership,
4 taxability, and situs. A form may not require but may permit a
5 property owner to furnish information not specifically required by
6 this chapter to be reported [~~relevant to the appraisal of property~~
7 ~~for tax purposes or to the assessment or collection of property~~
8 ~~taxes~~].

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

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

15 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. Except as
16 otherwise provided by Section 22.30, the chief appraiser may impose
17 a penalty of 10 percent of the amount of the tax due on a person who
18 fails to timely file a rendition statement or property report
19 required by this chapter.

20 Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX. The
21 chief appraiser shall impose an additional penalty of 50 percent of
22 the amount of the tax due if it is finally determined by a court of
23 competent jurisdiction that:

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

26 (2) the person alters, destroys, or conceals any
27 record, document, or thing, or presents to the chief appraiser any

1 altered or fraudulent record, document, or thing, or otherwise
2 engages in fraudulent conduct, for the purpose of affecting the
3 course or outcome of an inspection, investigation, determination,
4 or other proceeding before the appraisal district.

5 Sec. 22.30. WAIVER OF PENALTY. (a) The chief appraiser
6 shall waive the penalty imposed by Section 22.28 or 22.29 if the
7 person exercised reasonable diligence to comply with or has
8 substantially complied with the requirements of this chapter. A
9 written request, accompanied by supporting documentation, stating
10 the grounds on which penalties should be waived must be sent to the
11 chief appraiser not later than the 30th day after the date the
12 person received notification of the imposition of the penalty. The
13 chief appraiser shall make a determination of the penalty waiver
14 request based on the information submitted.

15 (b) The chief appraiser shall notify the person of the chief
16 appraiser's determination regarding the penalty waiver request
17 after considering:

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

20 (2) the type, nature, and taxability of the specific
21 property involved;

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

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

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

1 (6) any change in appraisal district policy during the
2 current or immediately preceding tax year that may affect how
3 property is rendered; and

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

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

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

12 SECTION 7. 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 the property owner fails to deliver, before the date
21 of the hearing, a rendition statement or property report required
22 by Chapter 22, the property owner has the burden of establishing the
23 value of the property by a preponderance of the evidence presented
24 at the hearing. If the property owner fails to meet that standard,
25 the protest shall be determined in favor of the appraisal district.

26 SECTION 8. This Act takes effect January 1, 2004, and
27 applies only to the rendition of property for ad valorem tax

1 purposes for a tax year that begins on or after that date.