

1-1 By: Staples, Averitt S.B. No. 340
1-2 (In the Senate - Filed January 31, 2003; February 11, 2003,
1-3 read first time and referred to Committee on Finance;
1-4 April 14, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 11, Nays 1; April 14, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 340 By: Staples

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the rendition of property for ad valorem tax purposes;
1-11 providing civil penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 22.01, Tax Code, is amended by amending
1-14 Subsection (a) and adding Subsections (f) through (i) to read as
1-15 follows:

1-16 (a) Except as provided by Chapter 24 [~~of this code~~], a
1-17 person shall render for taxation all tangible personal property
1-18 used for the production of income that the person [~~he~~] owns or that
1-19 the person [~~he~~] manages and controls as a fiduciary on January 1. A
1-20 rendition statement shall contain:

1-21 (1) the name and address of the property owner;

1-22 (2) a description of the property by type or category;

1-23 (3) if the property is inventory, a description of
1-24 each type of inventory and a general estimate of the quantity of
1-25 each type of inventory;

1-26 (4) the physical location or taxable situs of the
1-27 property; and

1-28 (5) the property owner's good faith estimate of the
1-29 market value of the property or, at the option of the property
1-30 owner, the historical cost when new and the year of acquisition of
1-31 the property.

1-32 (f) Notwithstanding Subsections (a) and (b), a rendition
1-33 statement of a person who owns tangible personal property used for
1-34 the production of income located in the appraisal district that, in
1-35 the owner's opinion, has an aggregate value of less than \$20,000 is
1-36 required to contain only:

1-37 (1) the name and address of the property owner;

1-38 (2) a general description of the property by type or
1-39 category; and

1-40 (3) the physical location or taxable situs of the
1-41 property.

1-42 (g) A person's good faith estimate of the market value of
1-43 the property under Subsection (a)(5) is solely for the purpose of
1-44 compliance with the requirement to render tangible personal
1-45 property and is inadmissible in any subsequent protest, hearing,
1-46 appeal, suit, or other proceeding involving the property, except
1-47 for:

1-48 (1) a proceeding to determine whether the person
1-49 complied with this section;

1-50 (2) a proceeding under Section 22.29(b); or

1-51 (3) a protest under Section 41.41.

1-52 (h) If the property that is the subject of the rendition is
1-53 regulated by the Public Utility Commission of Texas, the Railroad
1-54 Commission of Texas, the federal Surface Transportation Board, or
1-55 the Federal Energy Regulatory Commission, the owner of the property
1-56 is considered to have complied with the requirements of this
1-57 section if the owner provides to the chief appraiser, on written
1-58 request of the chief appraiser, a copy of the annual regulatory
1-59 report covering the property and sufficient information to enable
1-60 the chief appraiser to allocate the value of the property among the
1-61 appropriate taxing units for which the appraisal district appraises
1-62 property.

1-63 (i) Subsection (a) does not apply to a property owner whose

2-1 property is subject to appraisal by a third party retained by the
 2-2 appraisal district if the property owner provides information
 2-3 substantially equivalent to that required by Subsection (a)
 2-4 regarding the property directly to the third party appraiser.

2-5 SECTION 2. Section 22.07, Tax Code, is amended by adding
 2-6 Subsections (c) through (f) to read as follows:

2-7 (c) The chief appraiser may request, either in writing or by
 2-8 electronic means, that the property owner provide a statement
 2-9 containing supporting information indicating how the value
 2-10 rendered under Section 22.01(a)(5) was determined. The statement
 2-11 must:

2-12 (1) summarize information sufficient to identify the
 2-13 property, including:

2-14 (A) the physical and economic characteristics
 2-15 relevant to the opinion of value, if appropriate; and

2-16 (B) the source of the information used;

2-17 (2) state the effective date of the opinion of value;
 2-18 and

2-19 (3) explain the basis of the value rendered. If the
 2-20 property owner is a business with 50 employees or less, the property
 2-21 owner may base the estimate of value on the depreciation schedules
 2-22 used for federal income tax purposes.

2-23 (d) The property owner shall deliver the statement to the
 2-24 chief appraiser, either in writing or by electronic means, not
 2-25 later than the 21st day after the date the chief appraiser's request
 2-26 is received. The owner's statement is solely for informational
 2-27 purposes and is not admissible in evidence in any subsequent
 2-28 protest, suit, appeal, or other proceeding involving the property
 2-29 other than:

2-30 (1) a proceeding to determine whether the property
 2-31 owner has complied with this section;

2-32 (2) a proceeding under Section 22.29(b); or

2-33 (3) a protest under Section 41.41.

2-34 (e) A statement provided under this section is confidential
 2-35 information and may not be disclosed, except as provided by Section
 2-36 22.27.

2-37 (f) Failure to comply with this section in a timely manner
 2-38 is considered to be a failure to timely render under Section 22.01
 2-39 and penalties as described in Section 22.28 shall be applied by the
 2-40 chief appraiser.

2-41 SECTION 3. Section 22.23, Tax Code, is amended by amending
 2-42 Subsection (b) and adding Subsection (c) to read as follows:

2-43 (b) On written request [~~For good cause shown in writing~~] by
 2-44 the property owner, the chief appraiser shall [~~may~~] extend a
 2-45 deadline for filing a rendition statement or property report [~~by~~
 2-46 written order] to May 15 [~~a date not later than April 30~~]. The chief
 2-47 appraiser [~~However, if the property that is the subject of the~~
 2-48 rendition is regulated by the Public Utility Commission of Texas or
 2-49 the Railroad Commission of Texas, the chief appraiser, upon written
 2-50 request by the property owner, shall extend the filing deadline
 2-51 until April 30, and] may further extend the deadline an additional
 2-52 15 days upon good cause shown in writing by the property owner.

2-53 (c) If before December 1, 2003, a person files a rendition
 2-54 statement for the 2003 tax year that provides the information
 2-55 required by Section 22.01 as that section exists on January 1, 2004,
 2-56 and, as a result of that information, the chief appraiser discovers
 2-57 that some or all of that person's tangible personal property used
 2-58 for the production of income was omitted from the appraisal roll in
 2-59 one of the two preceding years, the chief appraiser may not add the
 2-60 value of the omitted property to the 2001 or 2002 appraisal roll.
 2-61 This subsection expires January 1, 2005.

2-62 SECTION 4. Subsections (b), (c), and (d), Section 22.24,
 2-63 Tax Code, are amended to read as follows:

2-64 (b) A person filing a rendition or report shall include all
 2-65 information required by Section 22.01 [~~the form~~].

2-66 (c) The comptroller may prescribe or approve different
 2-67 forms for different kinds of property but shall ensure that each
 2-68 form requires a property owner to furnish the information necessary
 2-69 to identify the property and to determine its ownership,

3-1 taxability, and situs. A form may not require but may permit a
 3-2 property owner to furnish information not specifically required by
 3-3 this chapter to be reported. In addition, a form prescribed or
 3-4 approved under this subsection must contain the following statement
 3-5 in bold type: "If you make a false statement on this form, you could
 3-6 be found guilty of a Class A misdemeanor or a state jail felony
 3-7 under Section 37.10, Penal Code." [~~relevant to the appraisal of~~
 3-8 ~~property for tax purposes or to the assessment or collection of~~
 3-9 ~~property taxes.~~]

3-10 (d) Except as required by Section 22.01(a), a [A] rendition
 3-11 or report form shall permit but [may] not require a property owner
 3-12 to state the owner's good faith estimate of [his opinion about] the
 3-13 market value of the [his] property.

3-14 SECTION 5. Subchapter B, Chapter 22, Tax Code, is amended by
 3-15 adding Sections 22.28, 22.29, and 22.30 to read as follows:

3-16 Sec. 22.28. PENALTY FOR DELINQUENT REPORT. (a) Except as
 3-17 otherwise provided by Section 22.30, the chief appraiser shall
 3-18 impose a penalty on a person who fails to timely file a rendition
 3-19 statement or property report required by this chapter in an amount
 3-20 equal to 10 percent of the total amount of taxes imposed on the
 3-21 property for that year by taxing units participating in the
 3-22 appraisal district.

3-23 (b) The chief appraiser may retain a portion of a penalty
 3-24 collected under this section, not to exceed 20 percent of the amount
 3-25 of the penalty, to cover the chief appraiser's costs of collecting
 3-26 the penalty. The chief appraiser shall distribute the remainder of
 3-27 the penalty to each taxing unit participating in the appraisal
 3-28 district that imposes taxes on the property in proportion to the
 3-29 taxing unit's share of the total amount of taxes imposed on the
 3-30 property by all taxing units participating in the district.

3-31 Sec. 22.29. PENALTY FOR FRAUD OR INTENT TO EVADE TAX.
 3-32 (a) The chief appraiser shall impose an additional penalty on the
 3-33 person equal to 50 percent of the total amount of taxes imposed on
 3-34 the property for the tax year of the statement or report by the
 3-35 taxing units participating in the appraisal district if it is
 3-36 finally determined by a court that:

3-37 (1) the person filed a false statement or report with
 3-38 the intent to commit fraud or to evade the tax; or

3-39 (2) the person alters, destroys, or conceals any
 3-40 record, document, or thing, or presents to the chief appraiser any
 3-41 altered or fraudulent record, document, or thing, or otherwise
 3-42 engages in fraudulent conduct, for the purpose of affecting the
 3-43 course or outcome of an inspection, investigation, determination,
 3-44 or other proceeding before the appraisal district.

3-45 (b) Enforcement of this section shall be by a proceeding
 3-46 initiated by the district or county attorney of the county in which
 3-47 the appraisal is established, on behalf of the appraisal district.

3-48 (c) In making a determination of liability under this
 3-49 section, the court shall consider:

3-50 (1) the person's compliance history with respect to
 3-51 paying taxes and filing statements or reports;

3-52 (2) the type, nature, and taxability of the specific
 3-53 property involved;

3-54 (3) the type, nature, size, and sophistication of the
 3-55 person's business or other entity for which property is rendered;

3-56 (4) the completeness of the person's records;

3-57 (5) the person's reliance on advice provided by the
 3-58 appraisal district that may have contributed to the violation;

3-59 (6) any change in appraisal district policy during the
 3-60 current or preceding tax year that may affect how property is
 3-61 rendered; and

3-62 (7) any other factor the court considers relevant.

3-63 (d) The chief appraiser may retain a portion of a penalty
 3-64 collected under this section, not to exceed 20 percent of the amount
 3-65 of the penalty, to cover the chief appraiser's costs of collecting
 3-66 the penalty. The chief appraiser shall distribute the remainder of
 3-67 the penalty to each taxing unit participating in the appraisal
 3-68 district that imposes taxes on the property in proportion to the
 3-69 taxing unit's share of the total amount of taxes imposed on the

4-1 property by all taxing units participating in the district.

4-2 Sec. 22.30. WAIVER OF PENALTY. (a) The chief appraiser
4-3 may waive the penalty imposed by Section 22.28 or 22.29 if the chief
4-4 appraiser determines that the person exercised reasonable
4-5 diligence to comply with or has substantially complied with the
4-6 requirements of this chapter. A written request, accompanied by
4-7 supporting documentation, stating the grounds on which penalties
4-8 should be waived must be sent to the chief appraiser not later than
4-9 the 30th day after the date the person received notification of the
4-10 imposition of the penalty. The chief appraiser shall make a
4-11 determination of the penalty waiver request based on the
4-12 information submitted.

4-13 (b) The chief appraiser shall notify the person of the chief
4-14 appraiser's determination regarding the penalty waiver request
4-15 after considering:

4-16 (1) the person's compliance history with respect to
4-17 paying taxes and filing statements or reports;

4-18 (2) the type, nature, and taxability of the specific
4-19 property involved;

4-20 (3) the type, nature, size, and sophistication of the
4-21 person's business or other entity for which property is rendered;

4-22 (4) the completeness of the person's records;

4-23 (5) the person's reliance on advice provided by the
4-24 appraisal district that may have contributed to the person's
4-25 failure to comply and the imposition of the penalty;

4-26 (6) any change in appraisal district policy during the
4-27 current or preceding tax year that may affect how property is
4-28 rendered; and

4-29 (7) any other factors that may have caused the person
4-30 to fail to timely file a statement or report.

4-31 (c) A property owner is entitled to protest before the
4-32 appraisal review board the failure or refusal of a chief appraiser
4-33 to waive a penalty under Subsection (a).

4-34 SECTION 6. Section 25.19, Tax Code, is amended by adding
4-35 Subsection (k) to read as follows:

4-36 (k) Notwithstanding any other provision of this section,
4-37 the chief appraiser may not deliver a written notice concerning
4-38 property that is required to be rendered or reported under Chapter
4-39 22 until after the applicable deadline for filing the rendition
4-40 statement or property report.

4-41 SECTION 7. Section 41.43, Tax Code, is amended by amending
4-42 Subsection (a) and adding Subsection (d) to read as follows:

4-43 (a) Except as provided by Subsection (d), in ~~[1a]~~ a protest
4-44 authorized by Section 41.41(a)(1) ~~[41.41(1)]~~ or (2), the appraisal
4-45 district has the burden of establishing the value of the property by
4-46 a preponderance of the evidence presented at the hearing. If the
4-47 appraisal district fails to meet that standard, the protest shall
4-48 be determined in favor of the property owner.

4-49 (d) If the property owner fails to deliver, before the date
4-50 of the hearing, a rendition statement or property report required
4-51 by Chapter 22 or a response to the chief appraiser's request for
4-52 information under Section 22.07(c), the property owner has the
4-53 burden of establishing the value of the property by a preponderance
4-54 of the evidence presented at the hearing. If the property owner
4-55 fails to meet that standard, the protest shall be determined in
4-56 favor of the appraisal district.

4-57 SECTION 8. (a) Except as provided by Subsection (b) of
4-58 this section, this Act takes effect January 1, 2004, and applies
4-59 only to the rendition of property for ad valorem tax purposes for a
4-60 tax year that begins on or after that date.

4-61 (b) Subsection (c), Section 22.23, Tax Code, as added by
4-62 this Act, takes effect September 1, 2003, and applies to the
4-63 rendition of property for ad valorem tax purposes for the 2003 tax
4-64 year.

4-65 * * * * *