

By: Bivins

S.B. No. 896

A BILL TO BE ENTITLED

1 AN ACT

2 relating to tax refunds and credits.

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

4 SECTION 1. Subsections (b) and (c), Section 111.104, Tax
5 Code, are amended to read as follows:

6 (b) A tax refund claim may be filed with the comptroller
7 only by the person who directly paid the tax to this state or by the
8 person's attorney, assignee, or other successor.

9 (c) A claim for a refund must:

10 (1) be written;

11 (2) state fully and in detail each reason or ground
12 ~~[the grounds]~~ on which the claim is founded; and

13 (3) be filed before the expiration of the applicable
14 limitation period as provided by this code or before the expiration
15 of six months after a jeopardy or deficiency determination becomes
16 final, whichever period expires later.

17 SECTION 2. Section 111.1042, Tax Code, is amended by adding
18 Subsection (d) to read as follows:

19 (d) If the right to a hearing is not exercised on a full or
20 partial denial of a claim for refund, the period during which the
21 comptroller informally reviewed the claim for refund does not toll
22 the limitation period for any subsequent claim for refund on the
23 same period and type of tax for which the claim for refund was fully
24 or partially denied.

1 SECTION 3. Section 111.105, Tax Code, is amended by
2 amending Subsection (a) and adding Subsection (e) to read as
3 follows:

4 (a) A person claiming a refund under Section 111.104 [~~of~~
5 ~~this code~~] is entitled to a hearing on the claim if the person
6 requests a hearing on or before the 30th day after the date [~~in~~
7 ~~accordance with procedures prescribed by~~] the comptroller issues a
8 letter denying the claim for refund. The person is entitled to 20
9 days' notice of the time and place of the hearing.

10 (e) During the administrative hearing process, a person
11 claiming a refund under Section 111.104 must submit documentation
12 to enable the comptroller to verify the claim for refund. The
13 comptroller may issue a notice of demand that all evidence to
14 support the claim for refund must be produced before the expiration
15 of a specified date in the notice. The specified date in the notice
16 may not be less than 180 days. The comptroller may not consider
17 evidence produced after the specified date in the notice in an
18 administrative hearing. The limitation provided by this subsection
19 does not apply to a judicial proceeding filed in accordance with
20 Chapter 112.

21 SECTION 4. Section 111.107, Tax Code, is amended to read as
22 follows:

23 Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED.

24 (a) Except as otherwise expressly provided, a person may request a
25 refund or a credit or the comptroller may make a refund or issue a
26 credit for the overpayment of a tax imposed by this title at any
27 time before the expiration of the period during which the

1 comptroller may assess a deficiency for the tax and not thereafter
2 unless the refund or credit is requested:

3 (1) under Subchapter B of Chapter 112 and the refund is
4 made or the credit is issued under a court order;

5 (2) under the provision of Section 111.104(c)(3)
6 applicable to a refund claim filed after a jeopardy or deficiency
7 determination becomes final; or

8 (3) under Chapter 153, except Section 153.1195(e),
9 153.121(d), 153.2225(e), or 153.224(d).

10 (b) A person may not refile a refund claim for the same
11 transaction or item, tax type, period, and ground or reason that was
12 previously denied by the comptroller.

13 (c) If the Railroad Commission of Texas certifies under
14 Section 201.057 that a well produces high-cost gas, a person may not
15 request a refund or a credit for overpayment of the tax imposed by
16 Chapter 201 on gas that was produced from that well more than two
17 years before the date the application for certification was filed
18 with the Railroad Commission of Texas.

19 SECTION 5. Subsections (b), (c), and (d), Section 111.206,
20 Tax Code, are amended to read as follows:

21 (b) A final determination that affects the amount of
22 liability of a tax imposed by this title shall be reported to the
23 comptroller before the expiration of 120 [~~60~~] days after the day on
24 which the determination becomes final. The report must include a
25 detailed statement of the reasons for the difference in tax
26 liability as required by the comptroller.

27 (c) Notwithstanding the expiration of a period of

1 limitation provided in this title, the comptroller may assess and
2 collect or bring suit for the collection of any tax deficiency,
3 including penalties and interest, resulting from a final
4 determination [~~or from investigation~~] at any time before the
5 expiration of one year after:

6 (1) the later of the day the report is required to be
7 filed as provided by Subsection (b) or the day [~~of this section is~~
8 ~~received, if~~] the report is received [~~filed within the 60-day~~
9 ~~period~~]; or

10 (2) [~~if the report is not made or is made after the~~
11 ~~60-day period, the day the report is received or~~] the day the final
12 determination is discovered, if a report is not filed [~~whichever~~
13 ~~period is the shorter~~].

14 (d) If a final determination [~~or investigation~~] results in
15 the taxpayer having overpaid the amount of tax due the state, the
16 taxpayer may file a claim for refund with the comptroller [~~shall~~
17 ~~refund or issue a credit~~] for the amount of the overpayment before
18 the first anniversary of the date the final determination becomes
19 final. If the comptroller assesses tax by issuing a deficiency
20 determination within the [~~at any time during the one-year~~] period
21 provided by [~~during which assessments may be made under~~] Subsection
22 (c), the taxpayer may file a claim for refund for an amount of tax
23 that has been found due in a deficiency determination before the
24 180th day after the deficiency determination becomes final, but the
25 claim is limited to the items and the tax payment period for which
26 the determination was issued [~~of this section~~].

27 SECTION 6. Subsections (a) and (b), Section 111.207, Tax

1 Code, are amended to read as follows:

2 (a) In determining the expiration date for a period when a
3 tax imposed by this title may be assessed, ~~or~~ collected, or
4 refunded, the following periods are not considered:

5 (1) the period following the date of a tax payment made
6 under protest, but only if a lawsuit is timely filed in accordance
7 with Chapter 112;

8 (2) the period during which a judicial proceeding is
9 pending in a court of competent jurisdiction to determine the
10 amount of the tax due; and

11 (3) the period during which an administrative
12 redetermination or refund hearing ~~[proceeding]~~ is pending before
13 the comptroller ~~[for a redetermination of the tax liability]~~.

14 (b) The suspension of a period of limitation under
15 Subsection (a) is limited ~~[of this section applies only]~~ to the
16 issues that were contested ~~[amount of taxes in issue]~~ under
17 Subdivision (1), (2), or (3) of that subsection.

18 SECTION 7. Subsection (d), Section 111.207, Tax Code, is
19 repealed.

20 SECTION 8. (a) This Act takes effect immediately if it
21 receives a vote of two-thirds of all the members elected to each
22 house, as provided by Section 39, Article III, Texas Constitution.
23 If this Act does not receive the vote necessary for immediate
24 effect, this Act takes effect September 1, 2003.

25 (b) This Act applies only to a claim for a refund made on or
26 after the effective date of this Act without regard to whether the
27 taxes that are the subject of the claim were due before, on, or

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1 after that date.