

By: Patrick

S.B. No. 393

A BILL TO BE ENTITLED

AN ACT

relating to amended sales tax reports and the reallocation of sales tax revenue.

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

SECTION 1. Subchapter I, Chapter 151, Tax Code, is amended by adding Section 151.4065 to read as follows:

Sec. 151.4065. AMENDED REPORT. (a) A taxpayer may amend a tax report filed under this chapter for a previous reporting period within the statute of limitations.

(b) The amended report must be filed on the form prescribed by the comptroller and must:

(1) include an explanation for the amendment; and

(2) be signed by the taxpayer or the person authorized by the taxpayer to amend the return.

SECTION 2. Subchapter F, Chapter 321, Tax Code, is amended by adding Section 321.510 to read as follows:

Sec. 321.510. REALLOCATION OF MUNICIPAL OR LOCAL GOVERNMENTAL ENTITY TAX REVENUE. (a) In this section, "local governmental entity" includes any governmental entity created by the legislature that has a limited purpose or function, that has a defined or restricted geographic territory, and that is authorized by law to impose a local sales and use tax the imposition, computation, administration, enforcement, and collection of which is governed by this chapter.

1 (b) This section applies only if:

2 (1) the comptroller intends to reallocate local tax
3 revenue from a municipality or local governmental entity to another
4 municipality or local governmental entity; and

5 (2) the amount the comptroller intends to reallocate
6 as the result of a single instance is at least equal to the lesser
7 of:

8 (A) \$200,000; or

9 (B) an amount equal to 10 percent of the revenue
10 received by the municipality or local governmental entity under
11 this chapter during the calendar year preceding the calendar year
12 in which the reallocation will be made.

13 (c) This section does not apply to a refund.

14 (d) The comptroller shall establish administrative
15 procedures for the examination of amended tax reports filed by
16 taxpayers under Section 151.4065 that result in a reallocation
17 amount described by Subsection (b).

18 (e) If, subject to the criteria provided by this section,
19 the comptroller concludes after an examination of taxpayer records
20 that tax revenue collected by the comptroller has been sent
21 incorrectly to a municipality or local governmental entity under
22 Section 321.502, the comptroller shall send to that municipality or
23 local governmental entity written notice that the comptroller
24 intends to reallocate the revenue to another municipality or local
25 governmental entity.

26 (f) The notice must include the following information
27 concerning the pending reallocation, regardless of whether the

1 information is confidential under state law, including Sections
2 111.006 and 151.027:

3 (1) the identity of the taxpayer;

4 (2) the reporting periods involved in the pending
5 reallocation;

6 (3) the amount of the pending reallocation; and

7 (4) a summary of the reason for the pending
8 reallocation.

9 (g) The provision of confidential information to a
10 municipality or local governmental entity under this section does
11 not affect the confidential nature of the information. A
12 municipality or local governmental entity shall use the information
13 only in a manner that maintains the confidential nature of the
14 information and may not disclose or release the information to the
15 public.

16 (h) A municipality or local governmental entity that
17 receives a notice under this section may request a review of the
18 pending reallocation by submitting to the comptroller a written
19 request for an independent audit review on the issue of whether the
20 original allocation of the revenue was incorrect. The municipality
21 or local governmental entity must submit the request not later than
22 the 30th day after the date the municipality or local governmental
23 entity receives the notice under this section.

24 (i) Not earlier than the 30th day or later than the 90th day
25 after the date the comptroller receives a request for an
26 independent audit review under Subsection (h), the comptroller
27 shall conduct an independent audit review on whether the original

1 allocation of the revenue was incorrect.

2 (j) The comptroller shall notify each affected taxpayer and
3 affected municipality or local governmental entity of the
4 independent audit review. The affected taxpayer and affected
5 municipality or local governmental entity may participate in the
6 review.

7 (k) After the conclusion of the review, the comptroller
8 shall notify each affected municipality and local governmental
9 entity in writing whether the reallocation will occur.

10 SECTION 3. Section 322.108(a), Tax Code, is amended to read
11 as follows:

12 (a) Except as provided by Subsection (b), the following
13 apply to the taxes imposed by this chapter in the same manner as
14 applicable to a municipality under Chapter 321:

- 15 (1) Section 321.002(a)(3);
- 16 (2) Section 321.003;
- 17 (3) Section 321.203;
- 18 (4) Section 321.205(d);
- 19 (5) Section 321.208;
- 20 (6) Section 321.209;
- 21 (7) Section 321.303;
- 22 (8) Section 321.304; ~~and~~
- 23 (9) Section 321.305; and
- 24 (10) Section 321.510.

25 SECTION 4. Subchapter F, Chapter 323, Tax Code, is amended
26 by adding Section 323.510 to read as follows:

27 Sec. 323.510. REALLOCATION OF COUNTY OR LOCAL GOVERNMENTAL

1 ENTITY TAX REVENUE. (a) In this section, "local governmental
2 entity" includes any governmental entity created by the legislature
3 that has a limited purpose or function, that has a defined or
4 restricted geographic territory, and that is authorized by law to
5 impose a local sales and use tax the imposition, computation,
6 administration, enforcement, and collection of which is governed by
7 this chapter.

8 (b) This section applies only if:

9 (1) the comptroller intends to reallocate local tax
10 revenue from a county or local governmental entity to another
11 county or local governmental entity; and

12 (2) the amount the comptroller intends to reallocate
13 as the result of a single instance is at least equal to the lesser
14 of:

15 (A) \$200,000; or

16 (B) an amount equal to 10 percent of the revenue
17 received by the county or local governmental entity under this
18 chapter during the calendar year preceding the calendar year in
19 which the reallocation will be made.

20 (c) This section does not apply to a refund.

21 (d) The comptroller shall establish administrative
22 procedures for the examination of amended tax reports filed by
23 taxpayers under Section 151.4065 that result in a reallocation
24 amount described by Subsection (b).

25 (e) If, subject to the criteria provided by this section,
26 the comptroller concludes after an examination of taxpayer records
27 that tax revenue collected by the comptroller has been sent

1 incorrectly to a county or local governmental entity under Section
2 323.502, the comptroller shall send to that county or local
3 governmental entity written notice that the comptroller intends to
4 reallocate the revenue to another county or local governmental
5 entity.

6 (f) The notice must include the following information
7 concerning the pending reallocation, regardless of whether the
8 information is confidential under state law, including Sections
9 111.006 and 151.027:

10 (1) the identity of the taxpayer;

11 (2) the reporting periods involved in the pending
12 reallocation;

13 (3) the amount of the pending reallocation; and

14 (4) a summary of the reason for the pending
15 reallocation.

16 (g) The provision of confidential information to a county or
17 local governmental entity under this section does not affect the
18 confidential nature of the information. A county or local
19 governmental entity shall use the information only in a manner that
20 maintains the confidential nature of the information and may not
21 disclose or release the information to the public.

22 (h) A county or local governmental entity that receives a
23 notice under this section may request a review of the pending
24 reallocation by submitting to the comptroller a written request for
25 an independent audit review on the issue of whether the original
26 allocation of the revenue was incorrect. The county or local
27 governmental entity must submit the request not later than the 30th

1 day after the date the county or local governmental entity receives
2 the notice under this section.

3 (i) Not earlier than the 30th day or later than the 90th day
4 after the date the comptroller receives a request for an
5 independent audit review under Subsection (h), the comptroller
6 shall conduct an independent audit review on whether the original
7 allocation of the revenue was incorrect.

8 (j) The comptroller shall notify each affected taxpayer and
9 affected county or local governmental entity of the independent
10 audit review. The affected taxpayer and affected county or local
11 governmental entity may participate in the review.

12 (k) After the conclusion of the review, the comptroller
13 shall notify each affected county and local governmental entity in
14 writing whether the reallocation will occur.

15 SECTION 5. This Act takes effect January 1, 2012.