

By: Ellis

S.B. No. 836

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the amount of the discount allowed for prepayment of
3 sales and use taxes and the allocation of certain revenue from those
4 taxes.

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

6 SECTION 1. Section 151.424, Tax Code, is amended by
7 amending Subsection (a) and adding Subsections (a-1), (e), and (f)
8 to read as follows:

9 (a) In addition to the amount permitted to be deducted and
10 withheld under Section 151.423, a [A] taxpayer who prepays the
11 taxpayer's tax liability on the basis of a reasonable estimate of
12 the tax liability for a quarter in which a prepayment is made or for
13 a month in which a prepayment is made may deduct and withhold the
14 lesser of the following, as determined by the comptroller under
15 Subsection (e):

16 (1) 1.25 percent of the amount of the prepayment; or
17 (2) an annually adjusted percentage of the amount of
18 the prepayment that yields an annualized rate of return equal to the
19 prime rate as published in The Wall Street Journal on the first
20 business day of each calendar year, plus four percent ~~[in addition~~
21 ~~to the amount permitted to be deducted and withheld under Section~~
22 ~~151.423 of this code].~~

23 (a-1) A reasonable estimate of the tax liability under
24 Subsection (a) must be at least 90 percent of the tax ultimately due

1 or the amount of tax paid in the same quarter, or month, if a monthly
2 prepayer, in the last preceding year. Failure to prepay a
3 reasonable estimate of the tax will result in the loss of the entire
4 prepayment discount.

5 (e) Not later than January 5 of each year, the comptroller
6 shall:

7 (1) determine the percentage of a taxpayer's
8 prepayment that may be deducted and withheld under Subsection (a);
9 and

10 (2) publish the percentage determined under this
11 subsection on the comptroller's Internet website.

12 (f) The percentage determined under Subsection (e) applies
13 to a deduction and withholding from a prepayment of tax liability
14 that a taxpayer makes on or after January 15 of the year the
15 comptroller makes the determination and before January 15 of the
16 succeeding year.

17 SECTION 2. Section 151.801, Tax Code, is amended by
18 amending Subsection (a) and adding Subsection (a-2) to read as
19 follows:

20 (a) Except for the amounts allocated under Subsections
21 (a-2), (b), and (c), all proceeds from the collection of the taxes
22 imposed by this chapter shall be deposited to the credit of the
23 general revenue fund.

24 (a-2) If the percentage determined under Section
25 151.424(a)(2) applies in determining the amount a taxpayer may
26 deduct and withhold under Section 151.424 from taxes imposed by
27 this chapter, the comptroller shall determine the difference

1 between the amount the taxpayer would deduct and withhold if the
2 percentage under Section 151.424(a)(1) applied and the amount the
3 taxpayer actually deducts and withholds under Section
4 151.424(a)(2). The comptroller shall deposit an amount equal to
5 that difference in an account in the general revenue fund. Money in
6 the account may be appropriated only to provide grants under
7 Subchapter M, Chapter 56, Education Code.

8 SECTION 3. The comptroller of public accounts shall make
9 the initial determination required by Section 151.424(e), Tax Code,
10 as added by this Act, not later than January 5, 2012.

11 SECTION 4. Section 151.424, Tax Code, as amended by this
12 Act, applies to a prepayment of tax liability made on or after
13 January 15, 2012. A prepayment of tax liability made before January
14 15, 2012, is governed by the law in effect immediately preceding the
15 effective date of this Act, and the former law is continued in
16 effect for that purpose.

17 SECTION 5. The change in law made by this Act does not
18 affect tax liability accruing before the effective date of this
19 Act. That liability continues in effect as if this Act had not been
20 enacted, and the former law is continued in effect for the
21 collection of taxes due and for civil and criminal enforcement of
22 the liability for those taxes.

23 SECTION 6. This Act takes effect September 1, 2011.