

By: Raymond

H.B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to refunds or credits of certain sales tax paid by certain business entities during a limited period.

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

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3411 to read as follows:

Sec. 151.3411. COMPUTER EQUIPMENT SOLD TO OR USED BY ELIGIBLE BUSINESS ENTITIES DURING CERTAIN PERIODS. (a) In this section:

(1) "Computer equipment" means a desktop or notebook computer and related equipment, including:

(A) a computer monitor or other display device;

(B) a printer, which may also be capable of performing scanning, photocopying, or facsimile functions; and

(C) other hardware or networking equipment for computers, such as adapters, modems, servers, routers, and other equipment associated with Internet access.

(2) "County average weekly wage" means the average weekly wage in a county for all jobs during the most recent four quarterly periods for which data is available, as computed by the Texas Workforce Commission, at the time a small business creates a job used to qualify for an exemption under this section.

(3) "Eligible small business" means a small business that meets the qualifications prescribed by Subsection (c).

1           (4) "Permanent job" means an employment position that  
2 will exist for at least five years after the date the job is  
3 created.

4           (5) "Qualifying job" means a full-time, permanent job  
5 the weekly wage for which exceeds the county average weekly wage in  
6 the county in which the job is based.

7           (6) "Small business" means a corporation,  
8 partnership, sole proprietorship, or other legal entity that  
9 employs fewer than 100 full-time, permanent employees, including  
10 the employees employed in the qualified jobs created to qualify for  
11 an exemption under this section.

12           (b) An eligible small business may claim a refund or credit  
13 as provided by this section for the taxes imposed by this chapter  
14 and paid on the sale, lease, or rental to or use by the business of a  
15 taxable item that is computer equipment if:

16           (1) the item:

17                   (A) is for the exclusive use and benefit of the  
18 business;

19                   (B) is necessary for the operation of the  
20 business; and

21                   (C) replaces an item that is computer equipment  
22 with respect to the sale, lease, rental, or use of which the  
23 business previously paid the tax imposed by this chapter, subject  
24 to Subsection (e); and

25           (2) the sale, lease, rental, or use of the item occurs  
26 not later than the fifth anniversary of the date the business  
27 initially qualifies as an eligible small business.

1       (c) A small business is eligible for the refund or credit  
2 under this section if the business:

3               (1) on or after September 1, 2013:

4                       (A) begins engaging in business in this state,  
5 subject to Subsection (d);

6                       (B) creates at least 25 qualifying jobs in the  
7 county in which the headquarters or other main office of the  
8 business is located;

9                       (C) invests at least \$10 million in capital  
10 investments in this state; and

11                       (D) purchases, leases, rents, or uses computer  
12 equipment for the exclusive use and benefit of the business that is  
13 necessary for the operation of the business and pays the tax imposed  
14 by this chapter on that purchase, lease, rental, or use; and

15               (2) certifies in writing to the comptroller that, in  
16 the absence of the refund or credit under this section, the business  
17 would not have begun engaging in business in this state.

18       (d) A small business is not considered to have begun  
19 engaging in business in this state on or after September 1, 2013,  
20 for purposes of Subsection (c)(1)(A) if the business is a  
21 subsidiary or affiliate of another business entity that engaged in  
22 business in this state before that date.

23       (e) Each item that is computer equipment with respect to  
24 which the eligible small business claims the refund or credit may  
25 replace only one item that is computer equipment described by  
26 Subsection (b)(1)(C), and the business may not receive a refund or  
27 credit for more items than the number of items being replaced. The

1 sales price of the replacement item may not be more than the sales  
2 price of the item that is replaced, and the replacement item and the  
3 item that is replaced must be the same type of computer equipment.

4 (f) An eligible small business entitled to a credit or  
5 refund under this section may elect to receive either a credit or a  
6 refund. A business that elects to receive a credit must claim the  
7 credit on the return for the period that ends not later than the  
8 first anniversary of the date the taxable event occurred. A  
9 business that elects to receive a refund must apply to the  
10 comptroller for the refund before or during the calendar year  
11 following the year in which the tax was paid. The certification  
12 required by Subsection (c)(2) may be made in conjunction with the  
13 return on which the credit is claimed or with the application for  
14 the refund.

15 (g) The comptroller may require a small business that claims  
16 a credit or applies for a refund under this section to provide to  
17 the comptroller additional documentation necessary to establish  
18 that the business is an eligible small business.

19 (h) A refund under this section is not a refund of taxes  
20 erroneously collected, and Section 111.064 does not apply.

21 (i) The comptroller shall adopt rules necessary to  
22 implement this section, including rules relating to the:

23 (1) qualification of a small business for a refund or  
24 credit under this section;

25 (2) determination of the date a small business  
26 initially qualifies as an eligible small business; and

27 (3) circumstances under which computer equipment is

1 considered to replace other computer equipment.

2       SECTION 2. The change in law made by this Act does not  
3 affect tax liability accruing before the effective date of this  
4 Act. That liability continues in effect as if this Act had not been  
5 enacted, and the former law is continued in effect for the  
6 collection of taxes due and for civil and criminal enforcement of  
7 the liability for those taxes.

8       SECTION 3. This Act takes effect September 1, 2013.